Subject: RE: Public Information Request (TX-SOS-22-0155) PIR 22-0221
Date: Monday, April 4, 2022 at 4:39:05 PM Eastern Daylight Time
From: GeneralCounsel
To: AO Records
CC: GeneralCounsel
Attachments: 4.4.22 Documents.zip

EXTERNAL SENDER

Good afternoon,

Consistent with our March 7 email, please find the attached documents responsive to your request for information under Chapter 552 of the Texas Government Code.

The responsive documents contain email addresses of the general public. An email address of a member of the public is confidential under section 552.137 of the Texas Government Code. The attorney general authorized all governmental bodies to withhold an email address of a member of the public without first requesting an attorney general opinion in Open Records Decision No. 684 (2009). Thus, this information has been redacted.

We appreciate your patience as we continue to process your request in accordance with the terms of the PIA. We require additional time to review our records and produce additional responsive documents. We will provide you any additional responsive documents—to the extent such information is not excepted from disclosure under state or federal law—by 5:00 p.m. on April 25, 2022. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Monday, March 7, 2022 2:51 PM
To: 'AO Records' <records@americanoversight.org>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request (TX-SOS-22-0155) PIR 22-0221

Good afternoon,

Please see the attached letter, with enclosures, in response to your request for information under Chapter 552 of the Texas Government Code.

The responsive documents contain email addresses of the general public. An email address of a member of the public is confidential under section 552.137 of the Texas Government Code. The attorney general authorized all governmental bodies to withhold an email address of a member of the public without first requesting an attorney general opinion in Open Records Decision No. 684 (2009). Thus, this information has been redacted.

The information you requested also contains an access device number that is collected, assembled, or maintained by or for a governmental body. This information is confidential under section 552.136 of the Texas

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Government Code. Section 552.136 allows us to withhold this specific information without requesting a ruling from the attorney general. You have the right to appeal our decision to withhold this information from you. Instructions for appeal are attached. If you do not want to appeal, you do not need to do anything else.

As stated in the letter, we require more time to continue reviewing our records and produce additional responsive information. We will provide you additional responsive documents—to the extent such information is not excepted from disclosure under state or federal law—by 5:00 p.m. on April 4, 2022. *See* Tex. Gov't Code § 552.221(d).

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Sent: Friday, February 25, 2022 1:17 PM
To: 'AO Records' <records@americanoversight.org>
Cc: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: RE: Public Information Request (TX-SOS-22-0155) PIR 22-0221

Good afternoon,

Thank you for contacting the Office of the Texas Secretary of State. Please see the attached letter, with enclosure, in response to your request for information under Chapter 552 of the Texas Government Code.

Kind regards,

Jennifer Williams
Legal Assistant to the General Counsel
Office of the Texas Secretary of State

From: AO Records <records@americanoversight.org>
Sent: Thursday, February 10, 2022 8:56 AM
To: GeneralCounsel <GeneralCounsel@sos.texas.gov>
Subject: Public Information Request (TX-SOS-22-0155)

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Dear Public Information Officer:

Please find attached a request for records under the Texas Public Information Act.

Sincerely,
Dylan Winters (he/him)
Paralegal
American Oversight
records@americanoversight.org
www.americanoversight.org | @weareoversight

PIR: TX-SOS-22-0155

From: CITGO Petroleum Corporation <CITGOCorp@em.citgo.com>
Sent: Tuesday, November 30, 2021 12:01 PM
To: Secretary
Subject: CITGO Fuel for Thought - November 2021

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Click here to view this email as a webpage.

As part of our commitment to accountable business practices and transparent performance, we provide this regular update to our stakeholders in the communities in which we operate. We are grateful for your engagement and encourage your insights and feedback.

November Highlights…

CITGO REPORTS THIRD QUARTER 2021 RESULTS

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CITGO reported a modest net loss of $4 million for the third quarter, but posted its second consecutive quarter of positive EBITDA[1] due to improving crack spreads and recovering gasoline, diesel and jet fuel demand. EBITDA in the third quarter was $194 million.

Planned and unplanned refinery outages, compressed margins in the Supply, Marketing and Lubes businesses and several one-time corporate events helped drive the narrow net loss.

"While our quarterly results were challenged despite an improved market environment, we are working to address operational issues as we move into the fourth quarter. Increased mobility is creating more demand for our products, and we will continue working hard to improve our operations so that we are well-positioned to fully capture available margins," said CITGO President and CEO Carlos Jordá. "I'm confident we are taking the necessary steps to finish 2021 strong."

[1]Earnings before interest, taxes, depreciation and amortization

CITGO DONATES MEALS TO HOUSTON-AREA HEALTHCARE WORKERS

To show its appreciation for the herculean efforts of healthcare workers during the COVID-19 pandemic, CITGO will provide 5,000 lunches to healthcare workers in the Harris Health System's network of hospitals, clinics and related facilities through early 2022. CITGO delivered the first meals Friday, November 18th.

The Harris Health System serves Harris County with two full-service hospitals, 18 community health centers, five same-day clinics, three multi-specialty clinic locations, a dental center and dialysis center, as well as school-based clinics and mobile health units.

CITGO is committed to investing in the strength and well-being of the communities it serves, both through direct corporate contributions and through the company's TeamCITGO employee volunteer organization.

CITGO CELEBRATES NATIONAL STEM DAY WITH CITGO INNOVATION ACADEMY STUDENTS

CITGO joined its Innovation Academies in Houston, Corpus Christi, Lake Charles and Lemont in marking National STEM Day on November 8, 2021.

To celebrate National STEM (Science, Technology, Engineering and Math) Day, CITGO helped support STEM demonstrations and experiments at the multiple CITGO Innovation Academies hosted at middle and high schools throughout our service area. At E. K. Key Elementary in Sulphur, Louisiana, for example, more than 500 students rotated through 11 hands-on STEM stations where they experimented with subjects ranging from aviation, chemistry, computer coding, robotics, engineering and more.

CITGO is a strong advocate for STEM education, with hopes of nurturing a path for opportunity among students in the communities we call home. CITGO launched the STEM Talent Pipeline program in 2016, aimed at increasing access to Science, Technology, Engineering and Math related educational opportunities by supporting and encouraging students to pursue a career in STEM. The program provides grants to schools and educational organizations in its operational communities including Lake Charles, Corpus Christi, Houston and Lemont. Along with financial support, CITGO encourages its employees to share their knowledge and experience with students and young professionals through classroom presentations and hands-on demonstrations.

The first CITGO Innovation Academy was launched in 2013 at Foy H. Moody High School in Corpus Christi, Texas.

CITGO RAISES MORE THAN $700K FOR THE MUSCULAR DYSTROPHY ASSOCIATION AT 35TH ANNUAL GOLF CHALLENGE

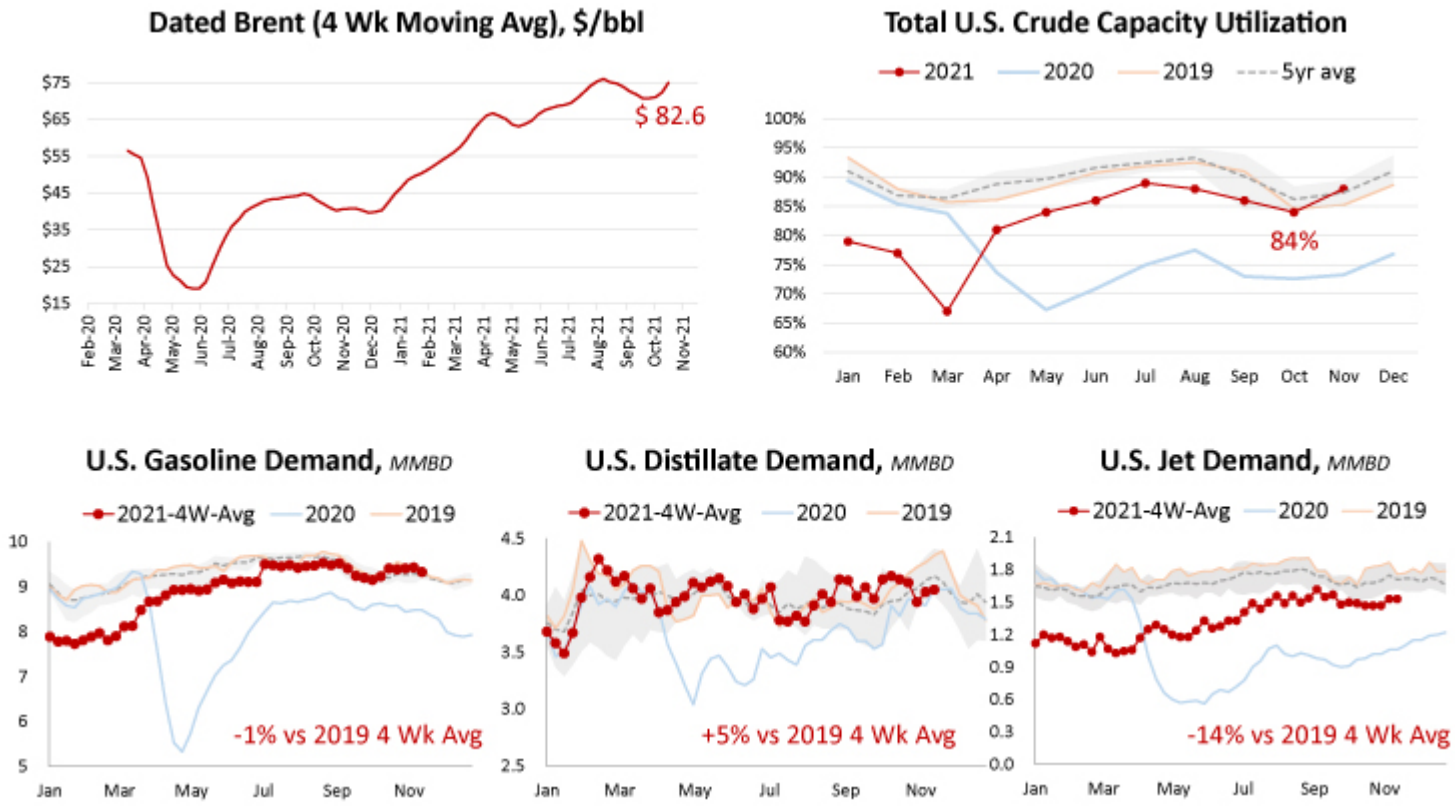
Continuing its decades-long partnership with the Muscular Dystrophy Association (MDA), CITGO Petroleum Corporation recently held its 35th annual Corporate Golf Challenge benefiting MDA. Held at the Golf Club of Houston, the event gathered 61 sponsors and raised more than $700,000 for families living with muscular dystrophy, ALS and related neuromuscular diseases that severely weaken muscle strength and mobility.

Earlier this year, the CITGO-MDA golf tournament in Corpus Christi set a new fundraising record, raising more than $314,000. During 2021 alone, CITGO Marketers and Retailers raised more than $1 million through Shamrocks Against Dystrophy mobile sales and golf tournaments. Throughout the year, CITGO

employees, Marketers and Retailers hold fundraisers benefiting MDA.

Since 1986, CITGO has raised more than $255 million through annual fundraising campaigns that support MDA's research grants and Care Center network at the nation's top medical institutions nationwide.

KEY REFINING INDUSTRY INDICES



Domestic gasoline demand remains slightly below 2019. Globally, economies are reducing COVID restrictions, improving mobility and gasoline consumption. Exports have been at high levels for four consecutive months. Margins remain robust.

Diesel fundamentals have improved, with rising demand and declining stocks. As port bottlenecks clear, truck and rail activity is expected to increase, furthering demand. International commercial flights remain 20% below 2019, but as many countries are reopening their borders to vaccinated international travelers, jet demand should increase, giving further support to distillate margins.

MORE AT CITGO.COM

Aprenda más sobre CITGO y el futuro de Venezuela en citgove.com

This email was sent by:
CITGO Petroleum Corporation
1293 Eldridge Parkway
Houston, TX 77077
USA

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TX-SOS-22-0155-B-000005

From:	Sam Taylor
To:	"michael.scarpello@dallascounty.org"
Cc:	John Scott; Keith Ingram
Subject:	Dallas County - Partial Manual Count - November 2020
Date:	Wednesday, December 29, 2021 4:37:08 PM
Attachments:	image001.png Dallas County_Partial Manual Count_November 2020 Election.xlsx
Sensitivity:	Personal

Hi Michael,

Thanks for chatting earlier and apologies for bothering you on your travels! I've attached the chart of the partial manual count numbers that your office provided us after the November 2020 election.

You'll see the red highlighted cells (J15 and K15) show that the electronic count for candidate Matt Sterett was 1, while the manual count was 11. We presume this was because of a data entry/clerical error, but wanted to make sure and confirm with your office.

Please let us know if y'all have any information on this you'd like to provide so we can note it in our progress report.

Much appreciated!

Best,

Sam Taylor
Assistant Secretary of State for Communications
Office of the Texas Secretary of State
smtaylor@sos.texas.gov
Office: 512-463-6116
Cell: 512-538-5293

AMERICAN OVERSIGHT

From: Keith Ingram
To: Kim Bergmann
Subject: Fw: Message from KIM BERGMANN (35702)
Date: Friday, January 21, 2022 11:59:31 AM
Attachments: Message from KIM BERGMANN (35702).msg

I am about to begin a call with ES&S regarding the SB 1 requirement of write once media. I don't know how long it will take, but it begins at noon. clear after that.

From: KIM BERGMANN <35702@voip.dir.texas.gov>
Sent: Friday, January 21, 2022 11:56 AM
To: 39871@voip.dir.texas.gov <39871@voip.dir.texas.gov>
Subject: Message from KIM BERGMANN (35702)

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From: ECR-Noticing <ECR-Noticing@epiqglobal.com>
Sent: Thursday, January 27, 2022 5:49 PM
Subject: In re: WALKER COUNTY HOSPITAL CORPORATION - Case No. 19-36300 - Docket Nos. 709, 710 - Bharat and Eaves Retentions
Attachments: 709_36300.pdf; 710_36300.pdf

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

Please see the attached:

DEBTOR'S APPLICATION FOR ENTRY OF AN ORDER APPROVING THE EMPLOYMENT AND RETENTION OF BHARAT CAPITAL, LLC AS CONSULTANT [Docket No. 709]

DEBTOR'S APPLICATION FOR ENTRY OF AN ORDER APPROVING THE EMPLOYMENT AND RETENTION OF EAVES LAW FIRM AS SPECIAL COUNSEL [Docket No. 710]

AMERICAN OVERSIGHT

TX-SOS-22-0155-B-000008

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	Chapter 11
WALKER COUNTY HOSPITAL CORPORATION, d/b/a HUNTSVILLE MEMORIAL HOSPITAL,	Case No. 19-36300
Debtor and Debtor in Possession. [1]	

DEBTOR'S APPLICATION FOR ENTRY OF AN ORDER APPROVING THE EMPLOYMENT AND RETENTION OF BHARAT CAPITAL, LLC AS CONSULTANT

If you object to the relief requested, you must respond in writing. Unless otherwise directed by the Court, you must file your response electronically at https://ecf.uscourts.gov/ within twenty-one days from the date this motion was filed. If you do not have electronic filing privileges, you must file a written objection that is actually received by the clerk within twenty-one days from the date this motion was filed. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.

Walker County Hospital Corporation, d/b/a Huntsville Memorial Hospital (the "***Debtor***"), by and through its undersigned counsel, files this application (the "***Application***") for entry of an order, substantially in the form submitted herewith, authorizing the Debtor to retain and employ Bharat Capital, LLC ("***Bharat***") as its consultant to identify and value potential opioid litigation claims the Debtor may have against third parties on a contingency fee basis. In support of this application, the Debtor submits the declaration of Sanjay Nayar, the Managing Member of Bharat (the "***Nayar Declaration***"), which is attached to this application as **Exhibit A**. In further support of this application, the Debtor respectfully states as follows:

[1] The last four digits of the Debtor's federal tax identification number are: 0960. The location of the Debtor's service address is: Walker County Hospital Corporation d/b/a Huntsville Memorial Hospital, c/o Healthcare Management Partners, LLC, 1033 Demonbreun Street, Suite 300, Nashville, TN 37203.

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JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the Southern District of Texas (the "***Court***") has jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of Texas*, dated May 24, 2012. This is a core proceeding under 28 U.S.C. § 157(b)(2). The Debtor confirms its consent, pursuant to Rule 7008 of the Federal Rules of Bankruptcy Procedures (the "***Bankruptcy Rules***"), to the entry of a final order by the Court in connection with this Application to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

3. On November 11, 2019 (the "***Petition Date***"), the Debtor filed a voluntary petition for relief in this Court, pursuant to chapter 11 of the Bankruptcy Code, commencing this case (the "***Chapter 11 Case***").

4. The Debtor continues to operate its business as a debtor in possession, pursuant to sections 1107(a) and 1008 of the Bankruptcy Code.

5. No request for the appointment of a trustee or examiner has been made in this Chapter 11 Case, nor have any committees been appointed or designated. An official committee of unsecured creditors (the "***Committee***") has been appointed in this Chapter 11 Case.

6. A description of the Debtor's business, the reasons for commencing this Chapter 11 Case, the relief sought from this Court, and the facts and circumstances supporting this motion are set forth in the *Declaration of Steven L. Smith in Support of First Day Motions* (the "***First Day Declaration***").

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TX-SOS-22-0155-B-000010

7. The Debtor holds potential opioid litigation claims against third parties who have engaged in violations of law in the fraudulent marketing and sale of certain highly addictive, opiate-derived painkillers for purposes for which they are neither safe nor effective (the "***Claims***"). The Debtor estimates these claims are worth in excess of $1,300,000 to the estate. The Debtor seeks to retain Bharat so that Bharat can assist the Debtor in identifying and valuing potential claims against specific third parties. In addition, Bharat will assist the Debtor in monetizing claims that will take longer than a year to realize payment on by introducing the Debtor to third parties interested in purchasing such claims from the Debtor.

RELIEF REQUESTED

8. By this application, the Debtor seeks entry of an order authorizing the Debtor to engage Bharat as consultant to assist the Debtor and special counsel, The Eaves Law Firm, in identifying and valuing the Claims on a contingency fee basis, in accordance with the terms and conditions set forth in the *Consulting Agreement*, a form of which is attached to the Nayar Declaration as **Exhibit 1** (the "***Engagement Letter***").

BASIS FOR RELIEF

9. The bases for the relief requested in this application are sections 327(a) and 330 of title 11 of the United States Code (the "***Bankruptcy Code***"), Rules 2014(a) and 2016 of the Bankruptcy Rules, and Local Rules 2014-1 and 2016-1 of the Bankruptcy Local Rules for the United States Bankruptcy Court for the Southern District of Texas (the "***Local Rules***").

BHARAT'S QUALIFICATIONS

10. Bharat is an advisory company specializing in advising attorneys, liquidating trusts and other litigation stakeholders on how to optimize their legal funding transactions. Bharat has extensive expertise and experience advising plaintiffs in similar opioid cases, including multiple health care providers, in addition to advising plaintiffs on how to monetize their claims. Bharat is

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well qualified to represent the Debtor as consultant in identifying specific third parties and valuing the Claims.

11. Given Bharat's breadth of experience in these and similar matters, Bharat is abundantly qualified to assist the Debtor in these Claims.

SERVICES TO BE PROVIDED

12. Bharat will assist the Debtor in identifying and valuing potential claims the Debtor may have against third parties. Bharat will also use its best efforts to monetize claims that may take longer than a year to payout by introducing the Debtor to potential purchases of such claims.

PROFESSIONAL COMPENSATION

13. **Contingency Fees**. Subject to Court approval, and in accordance with the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules, the Debtor will compensate Bharat in accordance with the terms and provisions of the Engagement Letter, which provides that: (i) if Bharat is able to identify Claims that result in cash proceeds to the Debtor, Bharat shall be paid 3.0% of the total amount of these proceeds (the "***Contingency Fee***"); and (ii) upon the consummation of any sale of the Debtor's Claims to a third party that Bharat introduced the Debtor to, Bharat will be compensated: (a) in the amount of $10,000 if the sale is for $500,000 or less; or (b) $20,000 if the sale is over $500,000 (the "***Referral Fee***" and together with the Contingency Fee, the "***Contingency Fee Schedule***").

14. The Debtor believes that the rates described above for Bharat's services under the Contingency Fee Schedule are competitive and are in line with the rates charged by Bharat for similar services in other similar cases and by its competitors. The Contingency Fee Schedule anticipates that a substantial commitment of professional time and effort would be required of Bharat and its professionals. No advance or retainer is contemplated by Bharat's Engagement

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Letter. The Debtor believes that Bharat's rates are reasonable given the quality of Bharat's services and its professionals' expertise in prosecuting similar Claims.

15. **Remittances and Reports**. Upon the successful resolution of any Claims, all proceeds recovered (the "***Gross Proceeds***") will be deposited into a segregated attorney trust account while Bharat seeks this Court's approval of compensation pursuant to the Bankruptcy Code.

16. The Debtor believes that the Contingency Fee Schedule described above is comparable to compensation generally charged by consultants of similar stature to Bharat for comparable engagements. Further, the Debtor believes that the Contingency Fee Schedule described above is consistent with Bharat's normal and customary billing practices for cases of this size and complexity that require the level and scope of services outlined.

17. The terms and conditions of the Engagement Letter were negotiated between the Debtor and Bharat at arm's length and in good faith, and they reflect the parties' mutual agreement as to the substantial efforts that will be required in this engagement. The fees have been agreed upon by the parties in anticipation of a substantial commitment of professional time and effort that will be required of Bharat and its professionals, in light of the fact that such commitment may foreclose other opportunities for Bharat and with the understanding that the actual time and commitment required of Bharat and its professionals to perform services thereunder may vary substantially from week to week or month or to month.

18. In light of the foregoing, and given the numerous issues that Bharat may be required to address in the performance of the services pursuant to the Engagement Letter, Bharat's commitment to the variable level of time and effort necessary to address all such issues as they arise, and the market prices for Bharat's services for engagements of this nature, the Debtor

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TX-SOS-22-0155-B-000013

believes the Contingency Fee Schedule is reasonable and should be approved under section 330 of the Bankruptcy Code.

19. Accordingly, the Debtor has determined, in the exercise of its sound business judgment, that the Engagement Letter, including the Contingency Fee Schedule, (a) appropriately reflects the nature of the services provided by Bharat, (b) contains reasonable terms and conditions of employment, and (c) should be approved.

20. The Debtor also seeks a waiver from the terms and obligations set forth in the *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals* [D.I. 202] (the "***Interim Compensation Order***") to allow Bharat to apply for the allowance of compensation for services rendered to the Engagement Letter by filing the following: (a) upon the occurrence of any settlements or sale of Claims, but prior to final resolution of all Claims, short-form statement that includes the amount of fees paid based on the Contingency Fee Schedule; and (b) upon the conclusion of services, a final fee application for final allowance of compensation for the services rendered in accordance with section 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any orders entered by the Court.

21. As set forth in the Nayar Declaration, compensation to be paid to Bharat under the Engagement Letter is a mathematical function of the applicable percentage according to the Contingency Fee Schedule, multiplied by the amount for which any Claim(s) is resolved, either by settlement or judgment, all of which are subject to approval by the Court after notice and an opportunity to be heard. Therefore, the Debtor submits that Bharat should not be required to maintain or provide time records to the Debtor, the Court, or the U.S. Trustee related to the services provided pursuant to the Engagement Letter, as Bharat would if it were being retained and paid on an hourly basis. Furthermore, the Debtor believes that Bharat's requirement to apply to the Court

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TX-SOS-22-0155-B-000014

periodically for allowance of compensation for professional services rendered pursuant to the Engagement Letter should be satisfied by filing a short form statement that includes the amount of fees paid and the final fee application. The Debtor has been advised that Bharat intends to comply with the U.S. Trustee's requests for information and additional disclosures as set forth in the U.S. Trustee Guidelines.

COMPENSATION RECEIVED BY BHARAT FROM THE DEBTOR

22. Pursuant to Bankruptcy Rule 2016(b), Bharat has neither shared nor agreed to share (a) any compensation it has received or may receive with another party or person, other than with the partners and associates of Bharat nor (b) any compensation another person or party has received or may receive.

23. Bharat has not received any compensation from the Debtor.

NO DUPLICATION OF SERVICES

24. In addition to this Application, the Debtor has retained (a) Waller Lansden Dortch & Davis, LLP, as general bankruptcy counsel and avoidance action counsel and (b) Healthcare Management Partners, LLC, as financial advisor. The Debtor is mindful of the need to avoid duplication of services and the Debtor understands that Bharat will use its reasonable efforts to work cooperatively with the Debtor's other professionals to avoid any unnecessary duplication of services and to integrate any respective work performed by those professionals on behalf of the Debtor.

BHARAT'S DISINTERESTEDNESS

25. To the best of the Debtor's knowledge (a) Bharat is a "disinterested person" within the meaning of section 101(14) of the Bankruptcy Code, as required by section 327(a) of the Bankruptcy Code, and does not hold or represent an interest adverse to the Debtor's estate and

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TX-SOS-22-0155-B-000015

(b) Bharat has no connection to the Debtor, its creditors, or other parties in interest, except as may be disclosed in the Nayar Declaration.

26. Bharat will continue to review its files periodically during the pendency of this Chapter 11 Case, to ensure that no conflicts or other disqualifying circumstances exist or arise.

27. If any new relevant facts or relationships are discovered or arise, Bharat will use reasonable efforts to identify such further developments and will promptly file a supplemental declaration, as required by Rules 2014(a) of the Bankruptcy Rules.

BASIS FOR RELIEF REQUESTED

28. Section 327(a) of the Bankruptcy Code provides that a debtor in possession may, with the court's approval, employ professionals that do not hold or represent an interest adverse to the estate and that are "disinterested persons," as defined by section 101(14) of the Bankruptcy Code, to represent or assist the debtor in possession in carrying out its duties under the Bankruptcy Code. *See* 11 U.S.C. § 101(14). Additionally, section 1107(b) of the Bankruptcy Code provides that a professional is not disqualified for employment by a chapter 11 debtor in possession under section 327(a) of the Bankruptcy Code solely because of its employment by or representation of the debtor before the commencement of the case. *See* 11 U.S.C. § 1107(b).

29. Bharat's services will enable the Debtor to execute faithfully their duties as a debtor in possession, and are necessary to the successful functioning of the Chapter 11 Case. Based upon both its extensive experience and expertise, Bharat is both well-qualified and uniquely able to assist the Debtor in identifying and valuing the Claims in an efficient, cost-effective, and timely manner. As stated above, the Debtor does not believe that Bharat holds or represents any interest adverse to the Debtor's estate, and they believe that Bharat is a "disinterested person" under the Bankruptcy Code. Accordingly, the Debtor submits that the retention of Bharat is in the best interests of the Debtor, their estate, and their creditors and should be approved by the Court.

AMERICAN OVERSIGHT

TX-SOS-22-0155-B-000016

RESERVATION OF RIGHTS

30. Nothing contained in this application is intended or should be construed as an admission as to the validity of any claim against the Debtor, a waiver of the Debtor's rights to dispute any claim, or an approval or assumption of any agreement, contract, or lease under section 365 of the Bankruptcy Code.

31. Similarly, if this Court grants the relief sought in this application, any payment made pursuant to the Court's order is not intended and should not be construed as an admission as to the validity of any claim or a waiver of the Debtor's rights to dispute such claim subsequently.

NOTICE

32. The Debtor provided advance notice to counsel to the Committee of the relief sought in this Application.

33. The Debtor has provided notice of this application by electronic mail, facsimile, or overnight mail to: (a) the Office of the United States Trustee for the Southern District of Texas; (b) counsel to the Committee; and (c) all parties entitled to notice pursuant to Rule 2002 of the Bankruptcy Rules.

34. Given the nature of the relief requested in this motion, the Debtor submits that no other or further notice is necessary or required.

NO PRIOR REQUEST

35. The Debtor has not made a prior request to this Court or any other court for the relief sought in this motion.

[*Remainder of Page Intentionally Left Blank*]

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TX-SOS-22-0155-B-000017

WHEREFORE, the Debtor respectfully requests that the Court grant the relief requested herein and such other and further relief as the Court may deem just and proper.

Dated: January 27, 2022

Respectfully submitted,

/s/ Scott Phillips
Scott Phillips
Financial Advisor to the Debtor

WALLER LANSDEN DORTCH & DAVIS, LLP

Blake D. Roth (Federal ID No. 2666808)
Tyler N. Layne (Federal ID No. 2639086)
Courtney K. Stone (Texas Bar No. 24093208)
511 Union Street, Suite 2700
Nashville, TN 37219
Telephone: (615) 244-6380
Facsimile: (615) 244-6804
Email: Blake.Roth@wallerlaw.com
Tyler.Layne@wallerlaw.com
Courtney.Stone@wallerlaw.com

-and-

Evan J. Atkinson (Texas Bar No. 24091844)
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Email: Evan.Atkinson@wallerlaw.com

Counsel for the Debtor and Debtor in Possession

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TX-SOS-22-0155-B-000018

EXHIBIT A

AMERICAN OVERSIGHT

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	Chapter 11
WALKER COUNTY HOSPITAL CORPORATION, d/b/a HUNTSVILLE MEMORIAL HOSPITAL,	Case No. 19-36300
Debtor and Debtor in Possession. [1]	

DECLARATION OF SANJAY NAYAR IN SUPPORT OF DEBTOR'S APPLICATION FOR ENTRY OF AN ORDER APPROVING THE EMPLOYMENT AND RETENTION OF BHARAT CAPITAL, LLC AS CONSULTANT

Pursuant to 28 U.S.C. § 1746, I, John Bharat, hereby declare and state as follows:

FOUNDATION

1. I am the Managing Member of Bharat Capital, LLC ("***Bharat***"). I obtained a bachelor degree in economics from the University of Pennsylvania in 1996 and have been a CFA holder since 2001. I submit this declaration (this "***Declaration***"), pursuant to sections 327(a) and 329 of title 11 of the United States Code (the "***Bankruptcy Code***"), Rules 2014 and 2016(b) of the Federal Rules of Bankruptcy Procedure (the "***Bankruptcy Rules***"), Rules 2014 and 2016 of the Local Rules for the United States Bankruptcy Court for the Southern District of Texas (the "***Local Rules***"), and the *Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases*, effective November 1, 2013 (the "***U.S. Trustee Fee Guidelines***"), in support of the *Debtor's Application for Entry of an Order Approving the Employment and Retention of Bharat*

[1] The last four digits of the Debtor's federal tax identification number are: 0960. The location of the Debtor's service address is: Walker County Hospital Corporation d/b/a Huntsville Memorial Hospital, c/o Healthcare Management Partners, LLC, 1033 Demonbreun Street, Suite 300, Nashville, TN 37203.

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Capital, LLC as Consultant (the "***Application***").[2] Unless otherwise stated in this Declaration, I have personal knowledge of the facts set forth herein.

THE DEBTOR'S RETENTION OF BHARAT

2. Bharat is an advisory company specializing in advising attorneys, liquidating trusts and other litigation stakeholders on how to optimize their legal funding transactions. Bharat has extensive expertise and experience advising plaintiffs in similar opioid cases, including multiple health care providers, in addition to advising plaintiffs on how to monetize their claims. Bharat is well qualified to represent the Debtor as consultant in identifying specific third parties and valuing the Claims.

3. Given Bharat's breadth of experience in these and similar matters, I believe Bharat is abundantly qualified to assist the Debtor in these Claims.

SERVICES TO BE PROVIDED

4. Bharat will assist the Debtor in identifying and valuing potential claims the Debtor may have against third parties. Bharat will also use its best efforts to monetize claims that may take longer than a year to payout by introducing the Debtor to potential purchases of such claims.

PREPETITION PAYMENTS TO BHARAT

5. Pursuant to Bankruptcy Rule 2016(b), Bharat has neither shared nor agreed to share (a) any compensation it has received or may receive with another party or person, other than with the partners and associates of Bharat nor (b) any compensation another person or party has received or may receive.

6. Bharat has not received any compensation from the Debtor.

[2] Capitalized terms used herein but not otherwise defined shall have the meanings set forth in the Application.

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BHARAT'S FEES FOR SERVICES TO BE RENDERED IN CONNECTION WITH THE CLAIMS

7. **Contingency Fees**. Subject to Court approval, and in accordance with the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules, the Debtor will compensate Bharat in accordance with the terms and provisions of the Engagement Letter, which provides that: (i) if Bharat is able to identify Claims that result in cash proceeds to the Debtor, Bharat shall be paid 3.0% of the total amount of these proceeds (the "***Contingency Fee***"); and (ii) upon the consummation of any sale of the Debtor's Claims to a third party that Bharat introduced the Debtor to, Bharat will be compensated: (a) in the amount of $10,000 if the sale is for $500,000 or less; or (b) $20,000 if the sale is over $500,000 (the "***Referral Fee***" and together with the Contingency Fee, the "***Contingency Fee Schedule***").

8. The rates described above for Bharat's services under the Contingency Fee Schedule are competitive and are in line with the rates charged by Bharat for similar services in other similar cases and by its competitors. The Contingency Fee Schedule anticipates that a substantial commitment of professional time and effort would be required of Bharat and its professionals. No advance or retainer is contemplated by Bharat's Engagement Letter. I believe that Bharat's rates are reasonable given the quality of Bharat's services and its professionals' expertise in prosecuting similar Claims.

9. **Remittances and Reports**. Upon the successful resolution of any Claims, all proceeds recovered (the "***Gross Proceeds***") will be deposited into a segregated attorney trust account while Bharat seeks this Court's approval of compensation pursuant to the Bankruptcy Code.

10. The Debtor believes that the Contingency Fee Schedule described above is comparable to compensation generally charged by consultants of similar stature to Bharat for

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comparable engagements. Further, the Debtor believes that the Contingency Fee Schedule described above is consistent with Bharat's normal and customary billing practices for cases of this size and complexity that require the level and scope of services outlined.

11. The terms and conditions of the Engagement Letter were negotiated between the Debtor and Bharat at arm's length and in good faith, and they reflect the parties' mutual agreement as to the substantial efforts that will be required in this engagement. The fees have been agreed upon by the parties in anticipation of a substantial commitment of professional time and effort that will be required of Bharat and its professionals, in light of the fact that such commitment may foreclose other opportunities for Bharat and with the understanding that the actual time and commitment required of Bharat and its professionals to perform services thereunder may vary substantially from week to week or month or to month.

BHARAT'S DISINTERESTEDNESS

12. To the best of my knowledge, information, and belief (a) other than its prior representations of the Debtor and its representation in connection with the Chapter 11 Case, Bharat has no connection with the Debtor except as disclosed herein; (b) Bharat does not represent, and has not represented, any entity other than the Debtor in the Chapter 11 Case; (c) Bharat does not have any connection with, and has not represented in the past, the United States Trustee for the Southern District of Texas, or any person employed by the Office of the United States Trustee for the Southern District of Texas; and (d) Bharat does not have any connection with the Debtor's creditors, any other party in interest, or their respective attorneys and accountants.

13. HMP together with its professional service provider affiliates (the "***Firm***") utilizes certain procedures (the "***Firm Procedures***") to determine its relationships, if any, to

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parties that may have a connection to the Debtor in the Chapter 11 Case. In implementing the Firm Procedures, the following actions were taken to identify parties that may have connections to the Debtor and to determine the Firm's relationship with such parties:

(a) Bharat reviewed the list of interested parties and significant creditors (the "***Interested Parties***") annexed hereto as **Schedule 1**.

(a) There are no known connections between former or recent clients of the Firm and the Potential Parties in Interest.

(b) No matches between the Interested Parties and the entities in Bharat's client database were identified.

14. Based on the search of names set forth in Schedule 1, Bharat concluded it has no connections with the Debtor and the Interested Parties.

15. I am confident that our diligence has resulted, to the greatest extent possible, in the disclosure of all potential conflicts. However, if Bharat discovers additional information that requires disclosure, Bharat will file a supplemental disclosure with the Court. Additionally, to the extent that issues may arise which would cause the Debtor to be adverse to any of Bharat's clients, Bharat will obtain and disclose waivers or, to the extent that it would not be appropriate for Bharat to represent the Debtor with respect to such matters, other counsel employed by the Debtor will represent the Debtor in connection with such matters.

16. Based upon information available to me at this time, I believe that Bharat is a "disinterested person" pursuant to section 101(14) of the Bankruptcy Code, and that Bharat does not hold or represent an interest adverse to the Debtor or their estates as required by section 327(a) of the Bankruptcy Code. Specifically, I do not believe that the connections between Bharat and the entities listed herein will impair Bharat's ability to represent the Debtor in this Chapter 11 Case.

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17. No promises have been received by Bharat or any member or associate thereof as to payment or compensation in connection with this case other than in accordance with the provisions of the Bankruptcy Code and the Bankruptcy Rules. Other than with members and regular associates of the firm, Bharat has no agreement with any other entity to share with such entity any compensation received by Bharat.

18. The foregoing constitutes the statement of Bharat pursuant to sections 327(a), 329 and 504 of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016(b).

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on January 27, 2022

/s/ Sanjay Nayar
Sanjay Nayar

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EXHIBIT 1

ENGAGEMENT LETTER

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CONSULTING AGREEMENT

THIS CONSULTING AGREEMENT (this "**Agreement**"), effective as of August __, 2021 is between _____ located in _____ and Bharat Capital, LLC (**"Consultant"**) located in Lake Forest, IL

RECITALS

A. The Company desires to engage Consultant for certain consulting services, and Consultant desires to provide such consulting services to the Company.

B. The Company and Consultant desire to set forth their agreement with respect to the term of Consultant's engagement by the Company, the ownership of Work (as defined below) developed or created by Consultant, the Confidential Information (as defined below), non-disclosure and use and other matters described herein.

AGREEMENT

As a condition to and in consideration of Consultant's engagement by and compensation from the Company, in consideration of the covenants and promises contained herein and any access to Confidential Information, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and Consultant (each, a "**Party**," and collectively, the "**Parties**") agree as follows:

1. Consulting Services and Term.

1.1 Engagement; Scope of Duties. The Company hereby engages Consultant, and Consultant hereby accepts such engagement, to assist the Company as a financial advisor in identifying, and valuing potential claims the Company may have against third parties. Included in the engagement, the Consultant will use best efforts to monetize claims that take longer than a year to payout.

Term and Termination. The term (the "**Term**") of this Agreement shall commence on the date hereof and expire upon termination of this Agreement. This Agreement may be terminated (i) by the Company, for any reason or no reason, upon written notice to Consultant; (ii) by Consultant, for any or no reason, upon thirty (30) days' prior written notice to the Company; or (iii) by either the Company or Consultant, upon a material breach of this Agreement by Consultant or the Company, respectively, upon written notice to the other Party.

1.2 Independent Contractor. The relationship between the Parties is, and will be for all purposes, an independent contractor relationship as between the Company, on the one hand, and Consultant, on the other hand, and neither this Agreement nor anything contained in this Agreement, or implied, will constitute any other relationship. Without limiting the generality of the foregoing, in performing the Consulting Services for the Company pursuant to this Agreement, Consultant shall act in the capacity of an independent contractor with respect to the Company, and Consultant shall not be deemed an employee or agent of the Company.

2. Consulting Fees; Cooperation.

2.1 Consulting Fees. During the Term, if the Consultant is able to identify claims that result in cash proceeds to the Company, Consultant shall be paid 3.0% of the total amount of these proceeds (gross of legal or any other fees).

In addition, Consultant will also seek to monetize any claims that have a duration of greater than a year by introducing Company to capital sources. Upon the consummation of any sale of the Company's claims to a third party that Consultant introduced Company to, Consultant will be

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compensated: (a) in the amount of $10,000 if the sale is for $500,000 or less; or (b) $20,000 if the sale is over $500,000.

2.2 Consultant Obligations. The Company shall not provide workers' compensation, disability insurance, Social Security, unemployment compensation coverage, or any other statutory benefit to Consultant. Consultant shall, at his own expense, comply with all, and be solely responsible for any liability arising out of, applicable provisions of workers' compensation laws, unemployment compensation laws, federal Social Security law, the Fair Labor Standards Act, and federal, state and local income tax laws, and all other applicable federal, state and local laws, regulations and codes relating to terms and conditions of employment required to be fulfilled by employers or independent contractors.

2.3 Income Tax Treatment. Consultant and the Company acknowledge that the Company intends to deduct the Consulting Fees as an ordinary and necessary business expense for income tax purposes. Consultant agrees and represents and warrants that, except as otherwise required in writing by the Internal Revenue Service (the "**IRS**"), Consultant shall (i) treat the Consulting Fees as ordinary income for income tax purposes, (ii) be responsible for all withholding obligations, and (iii) pay on a timely basis all taxes due in respect of the Consulting Fees (the "**Consultant's Taxes**"). Except as otherwise required by the IRS, if Consultant reports the receipt of the Consulting Fees as other than ordinary income and/or fails to pay the Consultant's Taxes, Consultant shall indemnify and hold the Company harmless from any and all taxes, penalties, interest, losses, liabilities, costs and expenses, including reasonable attorneys' fees and accounting fees, that are incurred by the Company as the result thereof.

3. Confidential Information.

3.1 Covenants. During the Term and thereafter, Consultant shall not copy, disclose, utilize or exploit any Confidential Information (as defined below) other than in connection with the performance of Consultant's duties and obligations to the Company, without the prior written consent of the Company (which may be granted or withheld in its absolute discretion), except to the extent that such Confidential Information is requested to be disclosed pursuant to any law, regulation or order of any court or regulatory commission, department or agency, or is disclosed by Consultant to a regulatory commission, department or agency in accordance with the applicable whistleblower provisions, including pursuant to the Dodd-Frank Act and SEC Rule 21F-17. In the event of any such request, Consultant shall immediately notify the Company of such fact, and shall thereafter cooperate with the Company (at its expense) in any lawful response to such legal process as the Company may request, in which event Consultant may disclose Confidential Information to the extent, and at the time, Consultant is legally required to do so pursuant to any applicable legal process. Notwithstanding the foregoing, Consultant may disclose this Agreement to his immediate family, and legal and financial advisors. Consultant further agrees to deliver promptly to the Company upon termination of this Agreement, or at any other time at the Company's request, all documents and computer media in any form (and all copies thereof) containing Confidential Information and/or Work.

3.2 Definition. "**Confidential Information**" means all confidential information, proprietary information, trade secrets or other information (whether oral or written), documents or materials (i) that are not publicly available and (ii) that, prior to termination of this Agreement, (a) have been or are provided to Consultant by the Company, one of its Affiliates, or a client of either of the foregoing, or (b) Consultant otherwise develops or has access to. Confidential Information may include, without limitation, information relating to costs, profits, databases, personnel, operational methods, financial models, potential transactions, pending negotiations, computer programs, algorithms, pending patent applications, systems, contractual negotiations, terms of agreements, client lists, financial results, business developments, or internal controls and security procedures, as well as information received from third parties that may be subject to

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confidentiality agreements or obligations, legal privileges, or other restrictions on the use or disclosure of such information. The foregoing is not an exhaustive list and Confidential Information also may include, without limitation, any other information, documents or materials that may be identified as confidential or proprietary, or which would otherwise appear to a reasonable person, in the context in which the information, documents or materials are received, provided or learned, to have such status. For the avoidance of doubt, this Agreement shall be considered Confidential Information.

3.3 **Attorney Client Interest.** The Parties agree that no attorney-client relationship has been or will be created between the Consultant, on the one hand, and the Company and its clients, on the other hand. The Parties explicitly agree that any privileged information, communications and materials that are inadvertently disclosed by the Company to Consultant or that are exchanged between Company and its clients shall be treated as Common Interest Materials (as defined in Section 4.4 hereof).

3.4 **Common Interest.** The Parties acknowledge that they share a common, joint and mutual legal interest in cooperating with each other in order to pursue the legal matters and their favorable outcome. To the extent that the Parties ' furtherance of the Business Purpose involves any exchange of proprietary documents and information, attorney work product or otherwise privileged information developed by the Parties (collectively, the "Common Interest Materials"), any such exchange shall not diminish the confidentiality of the Common Interest Materials, nor shall it constitute a waiver of any applicable privilege or protection. Further, any counsel or consultant retained by a Party to assist with the Business Purpose with respect to the Common Interest Materials shall be bound by, and entitled to the benefits of this provision_

4. **Warranty**. Consultant hereby represents and warrants that (i) he has the legal right and capacity to enter into this Agreement; (ii) Consultant's engagement by the Company and performance of his duties in connection therewith will not breach any confidentiality or other agreement with any former employer or other third party to which Consultant is bound; (iii) Consultant is not a party to, or bound by the terms of, any agreement (iv) restricting Consultant from using or disclosing any confidential or proprietary information in the course of Consultant's performance of the Consulting Services on behalf of the Company, (v) restricting Consultant from competing, directly or indirectly, with the business of any party, or (vi) that otherwise in any way prohibits, restricts, limits, would be breached by, or otherwise would be in conflict with Consultant's performance of the Consulting Services for the Company; (vii) Consultant has not previously granted, pledged or made any other disposition to any Person of any right, title or interest in or to the Work, and shall not make any such disposition to any Person other than the Company; (viii) the Work (excluding any materials submitted by the Company to Consultant) is and will be original creations by Consultant and does not and will not improperly use or disclose any trade secrets or confidential information or other property of any former employer of Consultant or of any other third party; (ix) neither the Work nor the production, exploitation and/or use by the Company of the Work or any portion thereof (excluding any materials submitted by the Company to Consultant), in any manner or media throughout the world, will, to Consultant's knowledge, in any way infringe or otherwise violate any intellectual property, privacy or other right of any Person; and (x) the Work does not and will not contain or embed any inventions that were created, conceived, developed, reduced to practice or caused to be created, conceived, developed or reduced to practice, alone or jointly, by Consultant prior to the date hereof.

5. **Severability and Blue Penciling**. If any clause, term or provision of this Agreement, or the application thereof to any Person or circumstance, shall to any extent be deemed by a court of competent jurisdiction to be invalid or unenforceable, then the remainder of this Agreement and the application of such clause, term or provision to Persons or circumstances other than those in respect of which it is invalid and unenforceable, shall not be affected thereby, and shall be valid

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and be enforced to the fullest extent permitted by law. If any court of competent jurisdiction shall deem any provision of this Agreement too restrictive, the other provisions shall stand, and the court shall modify the provision at issue to the point of greatest restriction permissible by law.

6. Governing Law; Waiver of Jury Trial; Consent to Arbitration.

6.1 This Agreement and the rights and obligations of the Parties hereunder shall be governed in all respects, including validity, interpretation and effect, by the laws of the State of Delaware, without regard to its rules of conflicts of law.

6.2 Each Party hereby irrevocably and unconditionally waives the right to seek remedies in court, including any right to a jury trial, and agrees to submit exclusively to binding arbitration (to be conducted in the manner set forth below) any dispute, controversy or claim between the Parties (or their respective heirs, successors, assigns or Affiliates) arising out of, relating to, or in connection with this Agreement or Consultant's engagement hereunder.

6.3 The arbitration shall be conducted in accordance with the Expedited Procedures of the Commercial Arbitration Rules of the American Arbitration Association (the "**AAA**") in effect at the time of the arbitration, except as such rules may be modified by mutual agreement of the Parties. The seat of the arbitration shall be Chicago, Illinois, and the arbitration shall be conducted in English. The arbitration shall be conducted by one arbitrator, and any discovery allowed by the applicable rules shall be further limited in scope. If the Parties have not agreed upon an arbitrator within thirty (30) days after the filing of the Request for Arbitration, then either Party may request the AAA to appoint the arbitrator.

6.4 The arbitral award shall be in writing, state the reasons for the award, and be final and binding on the Parties. Any award rendered by the arbitrator shall be final and binding, and judgment may be entered on it in any court of competent jurisdiction at the time such award is rendered or as otherwise provided by law.

6.5 The arbitrator shall not have authority to award punitive or other damages not measured by the prevailing Party's actual damages, and the Parties hereby irrevocably waive any claim thereto. The Parties, their representatives, other participants and the arbitrator shall hold the existence, content and result of any arbitration in the strictest of confidence and shall not disclose the same except as required by law and in connection with the confirmation and enforcement of any arbitral award.

** ** **

IN WITNESS WHEREOF, the Company and Consultant have executed this Consulting Agreement as of the date first set forth above.

Company name:

By: _____
Name: _____ Title: _____

Bharat Capital, LLC

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By: _____
Name: _____
Title: _____

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SCHEDULE 1

INTERESTED PARTIES

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DEBTOR AND CERTAIN NON-DEBTOR AFFILIATES

WALKER COUNTY HOSPITAL CORPORATION
HMH PHYSICIAN ORGANIZATION

DEBTOR FKA/DBAS

HUNTSVILLE MEMORIAL HOSPITAL

CURRENT AND FORMER DIRECTORS AND OFFICERS OF PAST 3 YEARS

MAC WOODWARD
SAM BURRIS
DAVE KHURANA
JACK CHOATE
URMIL SHUKLA
BRAD LIVINGSTON
CHARLES HENLEY
FERNE FROSCH
JOHN KNIGHT
STEVE SMITH
MICHAEL MORGAN
WILL DURHAM
MAX OWENS
DON JOHNSON
HELEN WATKINS
NANCY GAERTNER
ROBERT FERNANDEZ
NHU BRUCE
SHANNON BROWN
WAYNE SCOTT
DAVID PRIER
TIM DEAHL
SHEILA ARD
JOHN MOORE
GUY GROS
DAWN THOMPSON

DEBTOR'S PROFESSIONALS

WALLER LANSDEN DORTCH & DAVIS LLP
EPIQ BANKRUPTCY SOLUTIONS, LLC
HEALTHCARE MANAGEMENT PARTNERS, LLC
BROWN & FORTUNATO, PC

TOP 20 UNSECURED CREDITORS ON A CONSOLIDATED BASIS

CAVALIER HEALTH SERVICES, LLC
WALKER COUNTY HOSPITAL DISTRICT
INTUITIVE SURGICAL INC.
SABRE INVESTMENTS LLC
PREMIER ANESTHESIA
BCBS OF TEXAS
UNITEDHEALTH GROUP INC.
BROWN, SHANNON L.
UTMB CORRECTIONAL MANAGED CARE
PHILIPS HEALTHCARE
MATRIX TRUST CO. BROADRIDGE FINANCIAL
SOLUTIONS, INC.
CAREFUSION SOLUTIONS, LLC
STROUDWATER ASSOCIATES
MEDLINE INDUSTRIES, INC.
BAYLOR PATHOLOGY
MEDICARE
A-S 103 SAM HOUSTON TOWN CENTER, LP
G&E HC REIT II LIVINGSTON MOB
CIGNA SPECIAL INVESTIGATION UNIT
HSS SYSTEMS, LLC

TAXING AUTHORITIES

KAREN M. LANE TAX ASSESSOR--MADISON COUNTY
WALKER COUNTY APPRAISAL DISTRICT

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REEVES COUNTY APPRAISAL DISTRICT

CASH MANAGEMENT BANKS

BBVA USA
US BANK
FIRST NATIONAL BANK OF HUNTSVILLE

PARTIES TO SIGNIFICANT LITIGATION MATTERS INVOLVING THE DEBTOR

WALLACE, BERTHENIA
SABRE INVESTMENTS, LLC
MCKENNEY, RONALD
REDWOOD LAB SERVICES
BLUE CROSS/BLUE SHIELD
CAVALIER HEALTH SERVICES
CIGNA
STROUDWATER ASSOCIATES
PREMIER ANESTHESIA
EPSY SERVICES INC.
HEALOGICS
MANUAL, BRICKEY JUAN
BROWN, SHANNON
PETERS, BABY GIRL
CREAGOR, GEORGE
HARRIS, SHIRLEY
BACA, RICARDO
EMERGENCY STAFFING SOLUTIONS
WILLIS CLINIC
LIVINGSTON CLINIC
TREJO, BABY BOY
AMBULATORY SURGERY CENTER
COLEMAN, BARBARA
CROWDER, PAMELA
WISNIESKE, LARRY
BROWN II, CHARLES L.
TEXAS OFFICE OF ATTORNEY GENERAL, MEDICAID FRAUD CONTROL UNIT
GROS, GUY
WETHERBEE, PAT
RUFFIN, JOHNNA

LIENHOLDERS

GE HFS, LLC
GENERAL ELECTRIC CAPITAL CORP.
BANC OF AMERICA LEASING & CAPITAL, LLC
PNC EQUIPMENT FINANCE, LLC
CSI LEASING, INC.
LEASING ASSOCIATES OF BARRINGTON, INC.
U.S. BANK, N.A.
STRYKER FINANCE
MADISONVILLE ER
MB FINANCIAL BANK, N.A.
MED ONE CAPITAL FUNDING, LLC
PRIME ALLIANCE BANK
PHILLIPS MEDICAL CAPITAL, LLC
MIDCAP FUNDING IV TRUST
HEALTHCARE FINANCE GROUP
MIDCAP FUNDING IV TRUST
STRYKER SALES CORP.
XEROX FINANCIAL SERVICES
DR. PHILIP WISIACKAS D/B/A DOCTOR PHIL'S FAMILY MEDICINE
INTUITIVE SURGICAL, INC.
CSI LEASING, INC.
DE LAGE LANDEN FINANCIAL SERVICES, INC.
CARDINAL HEALTH 110 LLC
LETSOS CO.
ESPY SERVICES, INC.

BANKRUPTCY JUDGES S.D.T.X

ISGUR, MARVIN
JONES, DAVID R.
LOPEZ, CHRISTOPHER M.
NORMAN, JEFFREY P.
RODRIGUEZ, EDUARDO V.

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U.S. TRUSTEE, HOUSTON DIVISION

LIVINGSTONE, DIANE
BOYKIN, JACQUELINE
DURAN, HECTOR
GRIFFIN, BARBARA
JOHNSON-DAVIS, LUCI
MOTTON, LINDA
OTTO, GLENN
SCHMIDT, PATRICIA
SIMMONS, CHRISTY
SMITH, GWEN
STATHAM, STEPHEN
WAXTON, CLARISSA

AMERICAN OVERSIGHT

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re: WALKER COUNTY HOSPITAL CORPORATION, d/b/a HUNTSVILLE MEMORIAL HOSPITAL, Debtor and Debtor in Possession.[1]	Chapter 11 Case No. 19-36300 Re: Docket No. 525

ORDER APPROVING THE EMPLOYMENT AND RETENTION OF BHARAT CAPITAL, LLC AS CONSULTANT

Upon consideration the application (the "***Application***")[2] filed by the above-captioned Debtor; and the Court having found that it has jurisdiction to consider the Application and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and upon consideration of the Nayar Declaration in support thereof; and the Court having found that consideration of the Application and the relief requested therein is a core proceeding pursuant to 28 U.S.C. § 157(b); and the Court having found that venue of this proceeding in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that notice of the Application as set forth therein is sufficient under the circumstances; and the Court having reviewed the Application and having considered statements in support of the Application at the hearing held before this Court (the "***Hearing***"); and the Court having determined that the legal and factual bases set forth in the Application and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor,

[1] The last four digits of the Debtor's federal tax identification number are: 0960. The location of the Debtor's service address is: Walker County Hospital Corporation d/b/a Huntsville Memorial Hospital, c/o Healthcare Management Partners, LLC, 1033 Demonbreun Street, Suite 300, Nashville, TN 37203.

[2] Capitalized terms used herein but not otherwise defined shall have the meanings ascribed to them in the Application.

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IT IS THEREFORE ORDERED:

1. The Debtor is hereby authorized, pursuant to sections 327(a) and 330 of the Bankruptcy Code, Bankruptcy Rules 2014 and 2016, and Local Rule 2014-1(b), to employ and retain Bharat to assist the Debtor in identifying and valuing potential claims against specific third parties on the terms set forth in the Application and the Engagement Letter, effective immediately, as modified herein.

2. The terms of the Engagement Letter, attached to the Nayar Declaration as **Exhibit 1**, are approved in all respects except as limited or modified herein.

3. The terms and obligations set forth in the Interim Compensation Procedures Order are hereby waived with respect to Bharat. Instead, Bharat shall apply for the allowance of compensation for services rendered by filing the following: (a) upon the occurrence of any settlements with defendants but prior to Bharat's final resolution of all Claims, short-form statements that include the amount of fees paid based on the Contingency Fee Schedule; and (b) upon the conclusion of its services, a final fee application for final allowance of compensation for professional services rendered under the Engagement Letter in accordance with sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any applicable orders of this Court. Bharat shall be excused from time-keeping reporting requirements, with respect to its activities under the Engagement Letter, in applying for allowance of compensation for professional services as authorized herein.

4. Notwithstanding anything to the contrary herein, the U.S. Trustee shall have the right to object to upon the occurrence of any settlements with Defendants but prior to Bharat's final resolution of the Claims' final fee applications (including expense reimbursement) on all grounds, including the reasonableness standard provided in section 330 of the Bankruptcy Code.

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Accordingly, nothing in this Order or the record shall constitute a finding of fact or conclusion of law binding the U.S. Trustee, on appeal or otherwise, with respect to the reasonableness of Bharat's fees.

5. Bharat shall use its reasonable efforts to avoid any duplication of services provided by any of the Debtor's other retained professionals in this Chapter 11 Case.

6. The relief granted herein shall be binding upon any chapter 11 trustee appointed in the Chapter 11 Case, or upon any chapter 7 trustee appointed in the event of a subsequent conversion of the Chapter 11 Case to a case under chapter 7.

7. The Debtor and Bharat are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Application.

8. Notice of the Application as provided therein is deemed to be good and sufficient notice of such Application, and the requirements of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules are satisfied by the contents of the Application.

9. To the extent the Application is inconsistent with this Order, the terms of this Order shall govern.

10. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

11. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated: _____, 2022
Houston, Texas

_____
HONORABLE DAVID R. JONES
UNITED STATES BANKRUPTCY JUDGE

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TX-SOS-22-0155-B-000038

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re:	Chapter 11
WALKER COUNTY HOSPITAL CORPORATION, d/b/a HUNTSVILLE MEMORIAL HOSPITAL,	Case No. 19-36300
Debtor and Debtor in Possession. [1]	

DEBTOR'S APPLICATION FOR ENTRY OF AN ORDER APPROVING THE EMPLOYMENT AND RETENTION OF EAVES LAW FIRM AS SPECIAL COUNSEL

If you object to the relief requested, you must respond in writing. Unless otherwise directed by the Court, you must file your response electronically at https://ecf.uscourts.gov/ within twenty-one days from the date this motion was filed. If you do not have electronic filing privileges, you must file a written objection that is actually received by the clerk within twenty-one days from the date this motion was filed. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.

Walker County Hospital Corporation, d/b/a Huntsville Memorial Hospital (the "***Debtor***"), by and through its undersigned counsel, files this application (the "***Application***") for entry of an order, substantially in the form submitted herewith, authorizing the Debtor to retain and employ Eaves Law Firm ("***Eaves***") as its attorneys to pursue Claims (as defined below) on a contingency fee basis. In support of this application, the Debtor submits the declaration of John Eaves, a partner of Eaves (the "***Eaves Declaration***"), which is attached to this application as **Exhibit A**. In further support of this application, the Debtor respectfully states as follows:

JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the Southern District of Texas (the "***Court***") has jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and the *Amended*

[1] The last four digits of the Debtor's federal tax identification number are: 0960. The location of the Debtor's service address is: Walker County Hospital Corporation d/b/a Huntsville Memorial Hospital, c/o Healthcare Management Partners, LLC, 1033 Demonbreun Street, Suite 300, Nashville, TN 37203.

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Standing Order of Reference from the United States District Court for the Southern District of Texas, dated May 24, 2012. This is a core proceeding under 28 U.S.C. § 157(b)(2). The Debtor confirms its consent, pursuant to Rule 7008 of the Federal Rules of Bankruptcy Procedures (the "***Bankruptcy Rules***"), to the entry of a final order by the Court in connection with this Application to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

3. On November 11, 2019 (the "***Petition Date***"), the Debtor filed a voluntary petition for relief in this Court, pursuant to chapter 11 of the Bankruptcy Code, commencing this case (the "***Chapter 11 Case***").

4. The Debtor continues to operate its business as a debtor in possession, pursuant to sections 1107(a) and 1008 of the Bankruptcy Code.

5. No request for the appointment of a trustee or examiner has been made in this Chapter 11 Case, nor have any committees been appointed or designated. An official committee of unsecured creditors (the "***Committee***") has been appointed in this Chapter 11 Case.

6. A description of the Debtor's business, the reasons for commencing this Chapter 11 Case, the relief sought from this Court, and the facts and circumstances supporting this motion are set forth in the *Declaration of Steven L. Smith in Support of First Day Motions* (the "***First Day Declaration***").

7. The Debtor holds claims against a multitude of potential defendants identified on pages one and two of the form *Opioid Authority to Represent for Hospitals/Facilities* agreement (the "***Defendants***"), attached to the Eaves Declaration as **Exhibit 1** (the "***Engagement Letter***")

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who have engaged in violations of law in the fraudulent marketing and sale of certain highly addictive, opiate-derived painkillers for purposes for which they are neither safe nor effective (the "***Claims***"). The Debtor estimates these claims are worth in excess of $1,300,000 to the estate.

RELIEF REQUESTED

8. By this application, the Debtor seeks entry of an order authorizing Eaves to pursue the Claims on a contingency fee basis, in accordance with the terms and conditions set forth in the Engagement Letter.

BASIS FOR RELIEF

9. The bases for the relief requested in this application are sections 327(a) and 330 of title 11 of the United States Code (the "***Bankruptcy Code***"), Rules 2014(a) and 2016 of the Bankruptcy Rules, and Local Rules 2014-1 and 2016-1 of the Bankruptcy Local Rules for the United States Bankruptcy Court for the Southern District of Texas (the "***Local Rules***").

EAVES' QUALIFICATIONS

10. Eaves is a boutique law firm located in Jackson, Mississippi specializing in representing plaintiffs in, among other things, opioid cases. Eaves has extensive expertise and experience the representation of plaintiffs in such cases: (a) In Re: National Prescription Opiate Litigation [MDL No. 02804]; (b) In re Roundup Products Liability Litigation [MDL No. 02741]; (d) IN RE: Ashley Madison Customer Data Security Breach Litigation [MDL No. 02669]; (e) In Re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010 [MDL No. 2179]; (f) Asbestosis Litigation; (g) Breast Implant Litigation; and (h) various drug product liability cases.

11. Eaves is well qualified to represent the Debtor as special counsel in prosecuting the Claims. Eaves' team of attorneys represent hospitals in conjunction with Barrett Law Firm, who represents 840 hospitals across the United States in similar law suits. Working with accounting

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experts, we have developed a model and process that uses traditional hospital accounting methods to calculate, to the penny, the amounts lost as a result of these Claims.

12. Given Eaves' breadth of experience in these and similar matters, Eaves is abundantly qualified to represent the Debtor in these Claims.

SERVICES TO BE PROVIDED

13. Eaves has agreed to analyze, prosecute, and/or settle the Claims against the Defendants in accordance with the terms and conditions set forth in the Engagement Letter. The terms of the Engagement Letter reflect the mutual agreement negotiated at arm's length and in good faith between the Debtor and Eaves as to the substantial efforts that may be required of Eaves throughout the course of its representation of the Debtor.

PROFESSIONAL COMPENSATION

14. **Contingency Fees**. Subject to Court approval, and in accordance with the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules, the Debtor will compensate Eaves in accordance with the terms and provisions of the Engagement Letter, which provides a compensation structure (the "***Contingency Fee Schedule***") for Eaves' work related to the Claims, in relevant part as follows:

> (a) **Pre-Judgment.** Eaves shall earn legal fees on a contingency basis of 33% of the cash value of any recoveries obtained from any Defendants of all Claims settled prior to a judgment being rendered against such Defendants.
>
> (b) **Post Judgment**. Eaves shall earn legal fees on a contingency basis of 40% of the cash value of any recoveries obtained from any Defendants of all Claims obtained through a judgment against such Defendants.

15. The Debtor believes that the rates described above for Eaves' services under the Contingency Fee Schedule are competitive and are in line with the rates charged by Eaves for similar services in other similar cases and by its competitors. The Contingency Fee Schedule anticipates that a substantial commitment of professional time and effort would be required of

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Eaves and its professionals. No advance or retainer is contemplated by Eaves' Engagement Letter. The Debtor believes that Eaves' rates are reasonable given the quality of Eaves' services and its professionals' expertise in prosecuting similar Claims.

16. **Remittances and Reports**. Upon the successful resolution of any Claims, all proceeds recovered by Eaves (the "***Gross Proceeds***") will be deposited into a segregated attorney trust account while Eaves seeks this Court's approval of compensation pursuant to the Bankruptcy Code.

17. In addition to the compensation set forth in the Contingency Fee Schedule, upon Eaves' request for such reimbursement pursuant to the Bankruptcy Code, the Debtor shall reimburse Eaves for reasonable and documented out-of-pocket expenses from the Gross Proceeds as described in the Engagement Letter. Reasonable out-of-pocket expense items include, but are not limited to, the following: expert witnesses, shipping costs of records, court filing fees; reasonable costs of pleading filing services; mediation fees, deposition expenses; costs to domesticate and collect out of state judgments, entity name/officer verifications at $10.00 per entity; service of process; travel expenses, photocopying at 10 cents per page, postage, and telephone charges; and witness fees and costs. In the event that there are insufficient Gross Proceeds to cover the out of pocket expenses, the Debtor will not be responsible for such shortfall. Eaves will work cooperatively with other retained professionals in the Chapter 11 Case to avoid duplicative and/or competing efforts.

18. The Debtor seeks to retain Eaves on a contingency fee basis for the services provided under the Engagement Letter, such that Eaves' contingency fees will be earned only to the extent recoveries are obtained by the Debtor's estate with respect to Claims. Thus, if for some

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unforeseen reason, there is insufficient cash recoveries to cover the entire out of pocket expenses related to Eaves' prosecution of the Claims, Eaves will not seek reimbursement of any deficiency.

19. The Debtor believes that the Contingency Fee Schedule described above is comparable to compensation generally charged by counsel of similar stature to Eaves for comparable engagements. Further, the Debtor believes that the Contingency Fee Schedule described above is consistent with Eaves' normal and customary billing practices for cases of this size and complexity that require the level and scope of services outlined.

20. The terms and conditions of the Engagement Letter were negotiated between the Debtor and Eaves at arm's length and in good faith, and they reflect the parties' mutual agreement as to the substantial efforts that will be required in this engagement. The fees have been agreed upon by the parties in anticipation of a substantial commitment of professional time and effort that will be required of Eaves and its professionals, in light of the fact that such commitment may foreclose other opportunities for Eaves and with the understanding that the actual time and commitment required of Eaves and its professionals to perform services thereunder may vary substantially from week to week or month or to month.

21. In light of the foregoing, and given the numerous issues that Eaves may be required to address in the performance of the services pursuant to the Engagement Letter, Eaves' commitment to the variable level of time and effort necessary to address all such issues as they arise, and the market prices for Eaves' services for engagements of this nature, the Debtor believes the Contingency Fee Schedule is reasonable and should be approved under section 330 of the Bankruptcy Code.

22. Accordingly, the Debtor has determined, in the exercise of its sound business judgment, that the Engagement Letter, including the Contingency Fee Schedule, (a) appropriately

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reflects the nature of the services provided by Eaves, (b) contains reasonable terms and conditions of employment, and (c) should be approved.

23. The Debtor also seeks a waiver from the terms and obligations set forth in the *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals* [D.I. 202] (the "***Interim Compensation Order***") to allow Eaves to apply for the allowance of compensation for services rendered and reimbursement of expenses incurred pursuant to the Engagement Letter by filing the following: (a) upon the occurrence of any settlements with Defendants but prior to Eaves' final resolution of the Claims, short-form statement that includes the amount of fees paid based on the Contingency Fee Schedule and a reasonably detailed itemization of expenses incurred and paid; and (b) upon the conclusion of services, a final fee application for final allowance of compensation for the services rendered and reimbursement of expenses incurred in accordance with section 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any orders entered by the Court.

24. As set forth in the Eaves Declaration, compensation to be paid to Eaves under the Engagement Letter is a mathematical function of the applicable percentage according to the Contingency Fee Schedule, multiplied by the amount for which any Claim(s) is resolved, either by settlement or judgment, all of which are subject to approval by the Court after notice and an opportunity to be heard. Therefore, the Debtor submits that Eaves should not be required to maintain or provide time records to the Debtor, the Court, or the U.S. Trustee related to the services provided pursuant to the Engagement Letter, as Eaves would if it were being retained and paid on an hourly basis. Furthermore, the Debtor believes that Eaves' requirement to apply to the Court periodically for allowance of compensation for professional services rendered pursuant to the Engagement Letter should be satisfied by filing a short form statement that includes the amount of

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fees paid and a detailed itemization of expenses incurred, including any filing fees advanced by Eaves, and the final fee application. The Debtor has been advised that Eaves intends to comply with the U.S. Trustee's requests for information and additional disclosures as set forth in the U.S. Trustee Guidelines.

25. The Debtor understands that the requested compensation application process described above is similar to how avoidance action counsel in other cases has sought allowance of its compensation earned on a contingency basis. *See, e.g., In re Southern Foods Grp., LLC*, Case No. 19-36313 (Bankr. S.D. Tex. 2020) [Dkt. No. 2802]; *In re CR Holding Liquidating, Inc.*, Case No. 19-10210 (Bankr. D. Del. 2019) [Dkt. No. 770]; *In re Sears Holding Corp.*, Case No. 18-23538 (Bankr. S.D.N.Y. 2018) [Dkt. No. 4379]; *In re Central Grocers, Inc.*, Case No. 17-13886 (Bankr. N.D. Ill. 2017) [Dkt. No. 1372]; *In re APP Winddown LLC*, Case No 16-12551 (Bankr. D. Del. 2016) [Dkt. No. 1000].

COMPENSATION RECEIVED BY EAVES FROM THE DEBTOR

26. Pursuant to Bankruptcy Rule 2016(b), Eaves has neither shared nor agreed to share (a) any compensation it has received or may receive with another party or person, other than with the partners and associated counsel of Eaves nor (b) any compensation another person or party has received or may receive.

27. Eaves has not received any compensation from the Debtor.

NO DUPLICATION OF SERVICES

28. In addition to this Application, the Debtor has retained (a) Waller Lansden Dortch & Davis, LLP, as general bankruptcy counsel and avoidance action counsel and (b) Healthcare Management Partners, LLC, as financial advisor. The Debtor is mindful of the need to avoid duplication of services and the Debtor understands that Eaves will use its reasonable efforts to work cooperatively with the Debtor's other professionals to avoid any unnecessary duplication of

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services and to integrate any respective work performed by those professionals on behalf of the Debtor.

EAVES' DISINTERESTEDNESS

29. To the best of the Debtor's knowledge (a) Eaves is a "disinterested person" within the meaning of section 101(14) of the Bankruptcy Code, as required by section 327(a) of the Bankruptcy Code, and does not hold or represent an interest adverse to the Debtor's estate and (b) Eaves has no connection to the Debtor, its creditors, or other parties in interest, except as may be disclosed in the Eaves Declaration.

30. Eaves will continue to review its files periodically during the pendency of this Chapter 11 Case, to ensure that no conflicts or other disqualifying circumstances exist or arise.

31. If any new relevant facts or relationships are discovered or arise, Eaves will use reasonable efforts to identify such further developments and will promptly file a supplemental declaration, as required by Rules 2014(a) of the Bankruptcy Rules.

BASIS FOR RELIEF REQUESTED

32. Section 327(a) of the Bankruptcy Code provides that a debtor in possession may, with the court's approval, employ professionals that do not hold or represent an interest adverse to the estate and that are "disinterested persons," as defined by section 101(14) of the Bankruptcy Code, to represent or assist the debtor in possession in carrying out its duties under the Bankruptcy Code. *See* 11 U.S.C. § 101(14). Additionally, section 1107(b) of the Bankruptcy Code provides that a professional is not disqualified for employment by a chapter 11 debtor in possession under section 327(a) of the Bankruptcy Code solely because of its employment by or representation of the debtor before the commencement of the case. *See* 11 U.S.C. § 1107(b).

33. Eaves' services will enable the Debtor to execute faithfully their duties as a debtor in possession, and are necessary to the successful functioning of the Chapter 11 Case. Based upon

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both its extensive experience and expertise, Eaves is both well-qualified and uniquely able to pursue the Claims in an efficient, cost-effective, and timely manner. As stated above, the Debtor does not believe that Eaves holds or represents any interest adverse to the Debtor's estate, and they believe that Eaves is a "disinterested person" under the Bankruptcy Code. Accordingly, the Debtor submits that the retention of Eaves is in the best interests of the Debtor, their estate, and their creditors and should be approved by the Court.

RESERVATION OF RIGHTS

34. Nothing contained in this application is intended or should be construed as an admission as to the validity of any claim against the Debtor, a waiver of the Debtor's rights to dispute any claim, or an approval or assumption of any agreement, contract, or lease under section 365 of the Bankruptcy Code.

35. Similarly, if this Court grants the relief sought in this application, any payment made pursuant to the Court's order is not intended and should not be construed as an admission as to the validity of any claim or a waiver of the Debtor's rights to dispute such claim subsequently.

NOTICE

36. The Debtor provided advance notice to counsel to the Committee of the relief sought in this Application.

37. The Debtor has provided notice of this application by electronic mail, facsimile, or overnight mail to: (a) the Office of the United States Trustee for the Southern District of Texas; (b) counsel to the Committee; and (c) all parties entitled to notice pursuant to Rule 2002 of the Bankruptcy Rules.

38. Given the nature of the relief requested in this motion, the Debtor submits that no other or further notice is necessary or required.

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NO PRIOR REQUEST

39. The Debtor has not made a prior request to this Court or any other court for the relief sought in this motion.

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WHEREFORE, the Debtor respectfully requests that the Court grant the relief requested herein and such other and further relief as the Court may deem just and proper.

Dated: January 27, 2022

Respectfully submitted,

/s/ Scott Phillips
Scott Phillips
Financial Advisor to the Debtor

WALLER LANSDEN DORTCH & DAVIS, LLP

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Counsel for the Debtor and Debtor in Possession

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EXHIBIT A

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UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re: WALKER COUNTY HOSPITAL CORPORATION, d/b/a HUNTSVILLE MEMORIAL HOSPITAL, Debtor and Debtor in Possession. [1]	Chapter 11 Case No. 19-36300

DECLARATION OF JOHN EAVES IN SUPPORT OF DEBTOR'S APPLICATION FOR ENTRY OF AN ORDER APPROVING THE EMPLOYMENT AND RETENTION OF EAVES LAW FIRM AS SPECIAL COUNSEL

Pursuant to 28 U.S.C. § 1746, I, John Eaves, hereby declare and state as follows:

FOUNDATION

1. I am the sole owner of Eaves Law Firm ("***Eaves***"). I am admitted to practice before the courts of the State of Mississippi, the State of Arkansas, the United States Supreme Court, and various federal courts throughout the United States, to include various appellant courts. I submit this declaration (this "***Declaration***"), pursuant to sections 327(a) and 329 of title 11 of the United States Code (the "***Bankruptcy Code***"), Rules 2014 and 2016(b) of the Federal Rules of Bankruptcy Procedure (the "***Bankruptcy Rules***"), Rules 2014 and 2016 of the Local Rules for the United States Bankruptcy Court for the Southern District of Texas (the "***Local Rules***"), and the *Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330 by Attorneys in Larger Chapter 11 Cases*, effective November 1, 2013 (the "***U.S. Trustee Fee Guidelines***"), in support of the *Debtor's Application for Entry of an Order Approving the Employment and Retention of the Eaves Law Firm as*

[1] The last four digits of the Debtor's federal tax identification number are: 0960. The location of the Debtor's service address is: Walker County Hospital Corporation d/b/a Huntsville Memorial Hospital, c/o Healthcare Management Partners, LLC, 1033 Demonbreun Street, Suite 300, Nashville, TN 37203.

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Special Counsel (the "***Application***").[2] Unless otherwise stated in this Declaration, I have personal knowledge of the facts set forth herein.

THE DEBTOR'S RETENTION OF EAVES

2. Eaves is a boutique law firm located in Jackson, Mississippi specializing in representing plaintiffs in, among other things, opioid cases. Eaves has extensive expertise and experience the representation of plaintiffs in such cases: (a) In Re: National Prescription Opiate Litigation [MDL No. 02804]; (b) In re Roundup Products Liability Litigation [MDL No. 02741]; (d) IN RE: Ashley Madison Customer Data Security Breach Litigation [MDL No. 02669]; (e) In Re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010 [MDL No. 2179]; (f) Asbestosis Litigation; (g) Breast Implant Litigation; and (h) various drug product liability cases.

3. Eaves is well qualified to represent the Debtor as special counsel in prosecuting the Claims. Eaves' team of attorneys represent hospitals in conjunction with Barrett Law Firm, who represents 840 hospitals across the United States in similar law suits. Working with accounting experts, we have developed a model and process that uses traditional hospital accounting methods to calculate, to the penny, the amounts lost as a result of these Claims.

SERVICES TO BE PROVIDED

4. Eaves has agreed to analyze, prosecute, and/or settle the Claims against the Defendants in accordance with the terms and conditions set forth in the Engagement Letter. The terms of the Engagement Letter reflect the mutual agreement negotiated at arm's length and in good faith between the Debtor and Eaves as to the substantial efforts that may be required of Eaves throughout the course of its representation of the Debtor.

[2] Capitalized terms used herein but not otherwise defined shall have the meanings set forth in the Application.

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PREPETITION PAYMENTS TO EAVES

5. Pursuant to Bankruptcy Rule 2016(b), Eaves has neither shared nor agreed to share (a) any compensation it has received or may receive with another party or person, other than with the partners and associated counsel of Eaves nor (b) any compensation another person or party has received or may receive.

6. Eaves has not received any compensation from the Debtor.

EAVES' FEES FOR SERVICES TO BE RENDERED IN CONNECTION WITH THE CLAIMS

7. Except as described herein, pursuant to the terms and conditions of the Engagement Letter and subject to the Court's approval, Eaves intends to charge for its legal services with respect to the Claims as set forth below.

8. **Contingency Fees**. Subject to Court approval, and in accordance with the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules, the Debtor will compensate Eaves in accordance with the terms and provisions of the Engagement Letter, which provides a compensation structure (the "***Contingency Fee Schedule***") for Eaves' work related to the Claims, in relevant part as follows:

> (a) **Pre-Judgment.** Eaves shall earn legal fees on a contingency basis of 33% of the cash value of any recoveries obtained from any Defendants of all Claims settled prior to a judgment being rendered against such Defendants.
>
> (b) **Post Judgment**. Eaves shall earn legal fees on a contingency basis of 40% of the cash value of any recoveries obtained from any Defendants of all Claims obtained through a judgment against such Defendants.

9. The rates described above for Eaves' Services under the Contingency Fee Schedule are competitive and are in line with the rates charged by Eaves for similar services in similar cases and by its competitors. The Contingency Fee Schedule anticipates that a substantial commitment of professional time and effort would be required of Eaves and its professionals. No

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advance or retainer is contemplated by Eaves' Engagement Letter. Eaves' rates are reasonable given the quality of Eaves' services and its professionals' expertise in prosecuting similar Claims.

10. **Remittances and Reports**. Upon the successfully resolution of any Claims, all proceeds recovered by Eaves (the "***Gross Proceeds***") will be deposited into a segregated attorney trust account.

11. In addition to the compensation set forth in the Contingency Fee Schedule, upon Eaves' request for such reimbursement pursuant to the Bankruptcy Code, the Debtor shall reimburse Eaves for reasonable and documented out-of-pocket expenses from the Gross Proceeds as described in the Engagement Letter. Reasonable out-of-pocket expense items include, but are not limited to, the following: expert witnesses, shipping costs of records, court filing fees; reasonable costs of pleading filing services; mediation fees, deposition expenses; costs to domesticate and collect out of state judgments, entity name/officer verifications at $10.00 per entity; service of process; travel expenses, photocopying at 10 cents per page, postage, and telephone charges; and witness fees and costs. In the event that there are insufficient Gross Proceeds to cover the out of pocket expenses, the Debtor will not be responsible for such shortfall. Eaves will work cooperatively with other retained professionals in the Chapter 11 Case to avoid duplicative and/or competing efforts.

12. The Debtor seeks to retain Eaves on a contingency fee basis for the services provided under the Engagement Letter, such that Eaves' contingency fees will be earned only to the extent recoveries are obtained by the Debtor's estate with respect to Claims. Thus, if for some unforeseen reason, there is insufficient cash recoveries to cover the entire out of pocket

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expenses related to Eaves' prosecution of the Claims, Eaves will not seek reimbursement of any deficiency.

13. The Contingency Fee Schedule described above is comparable to compensation generally charged by counsel of similar stature to Eaves for comparable engagements. Further, the Contingency Fee Schedule described above is consistent with Eaves' normal and customary billing practices for cases of this size and complexity that require the level and scope of services outlined.

14. The terms and conditions of the Engagement Letter were negotiated between the Debtor and Eaves at arm's length and in good faith, and they reflect the parties' mutual agreement as to the substantial efforts that will be required in this engagement. The fees have been agreed upon by the parties in anticipation of a substantial commitment of professional time and effort that will be required of Eaves and its professionals, in light of the fact that such commitment may foreclose other opportunities for Eaves and with the understanding that the actual time and commitment required of Eaves and its professionals to perform services thereunder may vary substantially from week to week or month or to month.

EAVES' DISINTERESTEDNESS

15. To the best of my knowledge, information, and belief (a) other than its prior representations of the Debtor and its representation in connection with the Chapter 11 Case, Eaves has no connection with the Debtor except as disclosed herein; (b) Eaves does not represent, and has not represented, any entity other than the Debtor in the Chapter 11 Case; (c) Eaves does not have any connection with, and has not represented in the past, the United States Trustee for the Southern District of Texas, or any person employed by the Office of the United States Trustee for the Southern District of Texas; and (d) Eaves does not have any connection

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with the Debtor's creditors, any other party in interest, or their respective attorneys and accountants.

16. To check and clear conflicts, and in preparing my declaration, Eaves used a set of procedures that it has developed to ensure compliance with the requirements of the Texas Rules of Professional Conduct, conflicts rules observed by the Fifth Circuit Court of Appeals, the Bankruptcy Code, and the Bankruptcy Rules regarding the retention of professionals in chapter 11 cases. Pursuant to these procedures, Eaves performed the following actions to determine whether Eaves or any of its attorneys has any connections with, has in the past represented, or is currently representing potential parties in interest in the Chapter 11 Case:

(a) A list of interested parties (the "***Interested Parties***") was created using information provided by the Debtor and additional information identified by Eaves. The list of Interested Parties is comprised of the following entities, whose identities are set forth in **Schedule 1**, attached hereto:

(i) the Debtor and certain non-debtor affiliates;

(ii) the Debtor's top 20 unsecured creditors;

(iii) the Debtor's prepetition and postpetition advisors, attorneys, and other professionals;

(iv) officers, managers, and board members of the Debtor serving currently or within the past two years;

(v) the Debtor's cash management banks, landlords, utility providers, insurers, insurance brokers, and taxing authorities;

(vi) parties adverse to the Debtor in significant litigation;

(vii) lienholders on property of the Debtor's estates;

(viii) United States Bankruptcy Judges in the Southern District of Texas; and

(ix) United States Trustee for the Southern District of Texas, Houston Division, and their attorneys.

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(b) Eaves compared each of the Interested Parties to the names that Eaves maintains in its master conflicts database. Eaves' client database includes: (i) the name of each current or former client; (ii) the names of any entities materially related to, or materially adverse to, such current or former client; (iii) the names of the Eaves attorneys responsible for such current or former clients; (iv) the status of the matter as either "active" or "inactive"; and (v) the dates on which the matter was opened and/or closed. Eaves also circulated the list of Interested Parties to its attorneys, who were required to disclose any actual or potential conflicts of interest as part of Waller's normal conflicts screening procedures; and

(c) No matches between the Interested Parties and the entities in Eaves' client database were identified.

17. Based on the search of names set forth in Schedule 1, Eaves concluded it has no connections with the Debtor and the Interested Parties.

18. I am confident that our diligence has resulted, to the greatest extent possible, in the disclosure of all potential conflicts. However, if Eaves discovers additional information that requires disclosure, Eaves will file a supplemental disclosure with the Court. Additionally, to the extent that issues may arise which would cause the Debtor to be adverse to any of Eaves' clients, Eaves will obtain and disclose waivers or, to the extent that it would not be appropriate for Eaves to represent the Debtor with respect to such matters, other counsel employed by the Debtor will represent the Debtor in connection with such matters.

19. Based upon information available to me at this time, I believe that Eaves is a "disinterested person" pursuant to section 101(14) of the Bankruptcy Code, and that Eaves does not hold or represent an interest adverse to the Debtor or their estates as required by section 327(a) of the Bankruptcy Code. Specifically, I do not believe that the connections between Eaves and the entities listed herein will impair Eaves' ability to represent the Debtor in this Chapter 11 Case.

20. No promises have been received by Eaves or any member or associate thereof as to payment or compensation in connection with this case other than in accordance with the

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provisions of the Bankruptcy Code and the Bankruptcy Rules. Other than with members and regular associates of the firm, Eaves has no agreement with any other entity to share with such entity any compensation received by Eaves.

21. Consistent with the U.S. Trustee Fee Guidelines, I state as follows:

- Eaves has not agreed to a variation of its standard or customary billing arrangements for this engagement.
- None of Eaves' professionals included in this engagement have varied their rate based on the geographic location of the Chapter 11 Case.
- Eaves will be retained by the Debtor pursuant to the Engagement Letter. The material terms of the prepetition engagement are the same as the terms described in the Application and herein.
- The Debtor has approved or will be approving a prospective budget and staffing plan for Eaves' engagement for the postpetition period as appropriate. In accordance with the U.S. Trustee Guidelines, the budget may be amended as necessary to reflect changed or unanticipated developments.

22. The foregoing constitutes the statement of Eaves pursuant to sections 327(a), 329 and 504 of the Bankruptcy Code and Bankruptcy Rules 2014(a) and 2016(b).

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on January 27, 2022

/s/ John Eaves
John Eaves

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TX-SOS-22-0155-B-000059

EXHIBIT 1

ENGAGEMENT LETTER

AMERICAN OVERSIGHT

Eaves Law Firm
101 North State Street
Jackson, MS 39201

OPIOID AUTHORITY TO REPRESENT FOR HOSPITALS/FACILITIES

The undersigned Client, does hereby employ EAVES LAW FIRM, LLC ("ELF"), to represent the interest of _____ ("Client") and institute proceedings for damages against Amneal Pharmaceuticals, LLC; Amneal Pharmaceuticals, Inc.; Amneal Pharmaceuticals of New York, LLC; Impax Laboratories, LLC; Teva Pharmaceutical Industries, Ltd.; Teva Pharmaceuticals USA, Inc.; Cephalon, Inc.; Watson Laboratories, Inc.; Warner Chilcott Company, LLC; Actavis Pharma, Inc. f/k/a Watson Pharma, Inc.; Actavis South Atlantic, LLC; Actavis Elizabeth LLC; Actavis Mid Atlantic, LLC; Actavis Totowa, LLC; Actavis, LLC; Actavis Kadian, LLC; Actavis Laboratories UT, Inc; Actavis Laboratories FL, Inc.; Johnson & Johnson; Abbvie, Inc.; Janssen Pharmaceuticals, Inc.; Ortho-McNeil-Janssen Pharmaceuticals, Inc. n/k/a Janssen Pharmaceuticals, Inc.; Janssen Pharmaceutica, Inc., n/k/a Janssen Pharmaceuticals, Inc.; Miami-Luken; Noramco, Inc.; Tasmanian Alkaloids Pty. Ltd; Abbott Laboratories; Abbott Laboratories, Inc.; Smith Drug Company; Assertio Therapeutics, Inc.; Endo Health Solutions, Inc.; Endo Pharmaceuticals, Inc.; Par Pharmaceutical, Inc.; Par Pharmaceuticals Companies, Inc.; Allergan, PLC; Allergan Finance, LLC; Allergan Sales, LLC; Allergan USA, Inc.; Anda, Inc.; H.D. Smith, LLC f/k/a H.D. Smith Wholesale Drug Co.; Henry Schein, Inc.; KVK-Tech, Inc.; AmerisourceBergen Drug Corporation; Cardinal Health, Inc.; The Kroger Co.; Kroger Limited Partnership I; Kroger Limited Partnership II; CVS Health Corporation; CVS Pharmacy, Inc.; Interlock Pharmacy Systems, LLC; Omnicare Pharmacy of the Midwest, LLC d/b/a Omnicare of Kansas City; Walgreens Boots Alliance, Inc; Walgreen Co.; Walgreen Eastern Co., Inc.; Walmart, Inc.; Wal-Mart Stores East, LP; Practice Fusion;

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and/or any other possible defendant that may be revealed during the course of litigation, which have engaged in violations of law in the fraudulent marketing and sales of certain highly addictive, opiate-derived painkillers for purposes for which they are neither safe nor effective ("Claim").

1. For services rendered and to be rendered, Client conveys and assigns to my attorneys an undivided contingent interest in said Claim in the following percentages: 33% if no lawsuit is filed or a lawsuit is filed but settled before trial, or, 40% in the event trial is necessary. Client understands that its attorneys agree to advance necessary court costs and expenses, for which Client shall be ultimately responsible at the conclusion of its case after the deduction of attorney's fees. **Should Client incur expenses in the collection of information needed to process its Claim, Client shall submit the invoiced expenses to ELF and same will be deducted prior to the calculation of attorney's fees.**

2. ELF has the right to employ additional counsel in its sole discretion. Any and all co-counsel fees will be deducted from the percentage of attorney's fees listed above.

3. ELF is given the right to withdraw from this case after giving Client reasonable written notice.

4. It is agreed and understood that this employment is upon a contingent fee basis, and if no recovery is made, Client will not owe ELF any sum whatsoever as attorney's fees or expenses.

5. Client agrees that except upon the express written consent of ELF or as required by law, neither Client nor ELF will use or disclose to any third-party any Confidential Information, other than for the sole purpose of providing the services to Client by ELF.

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6. If any provision of this Authority to Represent/contract is determined to be unenforceable or not in compliance with any applicable ethical or bar association rule, regulation, law, or code provision, this Authority to Represent/contract shall be reformed to enable compliance with such rule, regulation, law, or code. In any event, the illegality, unenforceability, or lack of compliance with law, regulation, or ethical standards of any one provision of this Authority to Represent/contract shall not automatically render any other provision of this Authority to Represent/contract invalid as well. This Authority to Represent/contract shall be governed by and interpreted by the laws and ethical obligations of Washington, D.C.

7. In the event of disagreement between Client or ELF, the Parties shall endeavor in good faith to resolve those differences amicably and fairly with each other. If no agreement can be reached, the disagreements, disputes, or claims shall be resolved by a binding and confidential arbitration administered by JAMS exclusively pursuant to its Comprehensive Arbitration Rules and Procedures ("JAMS Rules") in Washington, D.C. ("the Forum"). Such arbitration will be conducted by a single arbitrator ("the Arbitrator") who is a member of the JAMS panel of neutrals in the Forum, to be selected by mutual agreement or in accordance with the JAMS Rules. The Arbitrator will have the power to determine all disputes, claims, and issues between us, including the scope or applicability of this agreement to arbitrate, regardless of legal basis or theory and whether based on alleged intentional or unintentional conduct. The laws of the District of Columbia shall govern the performance of this Authority to Represent/contract.

Notwithstanding this, the Federal Arbitration Act shall govern this arbitration provision and any arbitration proceedings between the Parties. The Parties agree that the Arbitrator shall make written findings of fact and conclusions of law. Each Party understands that, by agreeing to arbitrate any disputes between them, it is giving up

AMERICAN OVERSIGHT

rights, including the right to a trial by jury, to the broader discovery permitted in court proceedings, and to appeal. All costs for such third-party resolution (whether by an agreed third-party or JAMS) shall be split equally between Client and ELF, and each side shall be responsible for its own fees and expenses, regardless of the outcome.

8. The recitals hereto are incorporated herein and made a part of this Authority to Represent/contract. The provisions contained in paragraphs 5, 6, and 7 shall survive the termination of this Authority to Represent/contract.

9. This Authority to Represent/contract sets forth the entire agreement and understanding between the Parties with respect to the subject matter hereof and supersedes any and all other contracts, agreements, and negotiations, whether written or oral, with respect thereto. The Parties agree that this Authority to Represent/contract shall not be altered or amended in any way except in writing and signed by all Parties, and that the terms and conditions and duties of the same shall be affirmatively discharged in full and in good faith.

10. Each Party represents and warrants to the other Parties that the individual executing this Authority to Represent/contract on its behalf has the requisite power and authority to bind that Party to the terms hereof. Digitally executed and scanned, faxed, emailed, and/or photocopies of physically executed copies of this Authority to Represent/contract shall be binding upon all signatories and may be executed simultaneously in two or more counterparts, each of which taken together shall constitute a single Authority to Represent/contract.

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Dated: _____

_____
Signature of Officer

_____
Printed Name of Officer

_____
Title of Officer

Address:

_____

_____

Telephone Number:

_____

_____
Accepted for Eaves Law Firm

Witness #1:

_____
Witness #1 Signature

_____
Printed Name of Witness #1

Witness #2:

_____
Witness #2 Signature

_____
Printed Name of Witness #2

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SCHEDULE 1

INTERESTED PARTIES

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DEBTOR AND CERTAIN NON-DEBTOR AFFILIATES

WALKER COUNTY HOSPITAL CORPORATION
HMH PHYSICIAN ORGANIZATION

DEBTOR FKA/DBAS

HUNTSVILLE MEMORIAL HOSPITAL

CURRENT AND FORMER DIRECTORS AND OFFICERS OF PAST 3 YEARS

MAC WOODWARD
SAM BURRIS
DAVE KHURANA
JACK CHOATE
URMIL SHUKLA
BRAD LIVINGSTON
CHARLES HENLEY
FERNE FROSCH
JOHN KNIGHT
STEVE SMITH
MICHAEL MORGAN
WILL DURHAM
MAX OWENS
DON JOHNSON
HELEN WATKINS
NANCY GAERTNER
ROBERT FERNANDEZ
NHU BRUCE
SHANNON BROWN
WAYNE SCOTT
DAVID PRIER
TIM DEAHL
SHEILA ARD
JOHN MOORE
GUY GROS
DAWN THOMPSON

DEBTOR'S PROFESSIONALS

WALLER LANSDEN DORTCH & DAVIS LLP
EPIQ BANKRUPTCY SOLUTIONS, LLC
HEALTHCARE MANAGEMENT PARTNERS, LLC
BROWN & FORTUNATO, PC

TOP 20 UNSECURED CREDITORS ON A CONSOLIDATED BASIS

CAVALIER HEALTH SERVICES, LLC
WALKER COUNTY HOSPITAL DISTRICT
INTUITIVE SURGICAL INC.
SABRE INVESTMENTS LLC
PREMIER ANESTHESIA
BCBS OF TEXAS
UNITEDHEALTH GROUP INC.
BROWN, SHANNON L.
UTMB CORRECTIONAL MANAGED CARE
PHILIPS HEALTHCARE
MATRIX TRUST CO. BROADRIDGE FINANCIAL SOLUTIONS, INC.
CAREFUSION SOLUTIONS, LLC
STROUDWATER ASSOCIATES
MEDLINE INDUSTRIES, INC.
BAYLOR PATHOLOGY
MEDICARE
A-S 103 SAM HOUSTON TOWN CENTER, LP
G&E HC REIT II LIVINGSTON MOB
CIGNA SPECIAL INVESTIGATION UNIT
HSS SYSTEMS, LLC

TAXING AUTHORITIES

KAREN M. LANE TAX ASSESSOR--MADISON COUNTY
WALKER COUNTY APPRAISAL DISTRICT

AMERICAN OVERSIGHT

REEVES COUNTY APPRAISAL DISTRICT

CASH MANAGEMENT BANKS

BBVA USA
US BANK
FIRST NATIONAL BANK OF HUNTSVILLE

PARTIES TO SIGNIFICANT LITIGATION MATTERS INVOLVING THE DEBTOR

WALLACE, BERTHENIA
SABRE INVESTMENTS, LLC
MCKENNEY, RONALD
REDWOOD LAB SERVICES
BLUE CROSS/BLUE SHIELD
CAVALIER HEALTH SERVICES
CIGNA
STROUDWATER ASSOCIATES
PREMIER ANESTHESIA
EPSY SERVICES INC.
HEALOGICS
MANUAL, BRICKEY JUAN
BROWN, SHANNON
PETERS, BABY GIRL
CREAGOR, GEORGE
HARRIS, SHIRLEY
BACA, RICARDO
EMERGENCY STAFFING SOLUTIONS
WILLIS CLINIC
LIVINGSTON CLINIC
TREJO, BABY BOY
AMBULATORY SURGERY CENTER
COLEMAN, BARBARA
CROWDER, PAMELA
WISNIESKE, LARRY
BROWN II, CHARLES L.
TEXAS OFFICE OF ATTORNEY GENERAL, MEDICAID FRAUD CONTROL UNIT
GROS, GUY
WETHERBEE, PAT
RUFFIN, JOHNNA

LIENHOLDERS

GE HFS, LLC
GENERAL ELECTRIC CAPITAL CORP.
BANC OF AMERICA LEASING & CAPITAL, LLC
PNC EQUIPMENT FINANCE, LLC
CSI LEASING, INC.
LEASING ASSOCIATES OF BARRINGTON, INC.
U.S. BANK, N.A.
STRYKER FINANCE
MADISONVILLE ER
MB FINANCIAL BANK, N.A.
MED ONE CAPITAL FUNDING, LLC
PRIME ALLIANCE BANK
PHILLIPS MEDICAL CAPITAL, LLC
MIDCAP FUNDING IV TRUST
HEALTHCARE FINANCE GROUP
MIDCAP FUNDING IV TRUST
STRYKER SALES CORP.
XEROX FINANCIAL SERVICES
DR. PHILIP WISIACKAS D/B/A DOCTOR PHIL'S FAMILY MEDICINE
INTUITIVE SURGICAL, INC.
CSI LEASING, INC.
DE LAGE LANDEN FINANCIAL SERVICES, INC.
CARDINAL HEALTH 110 LLC
LETSOS CO.
ESPY SERVICES, INC.

BANKRUPTCY JUDGES S.D.T.X

ISGUR, MARVIN
JONES, DAVID R.
LOPEZ, CHRISTOPHER M.
NORMAN, JEFFREY P.
RODRIGUEZ, EDUARDO V.

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U.S. TRUSTEE, HOUSTON DIVISION

LIVINGSTONE, DIANE
BOYKIN, JACQUELINE
DURAN, HECTOR
GRIFFIN, BARBARA
JOHNSON-DAVIS, LUCI
MOTTON, LINDA
OTTO, GLENN
SCHMIDT, PATRICIA
SIMMONS, CHRISTY
SMITH, GWEN
STATHAM, STEPHEN
WAXTON, CLARISSA

AMERICAN OVERSIGHT

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re: WALKER COUNTY HOSPITAL CORPORATION, d/b/a HUNTSVILLE MEMORIAL HOSPITAL, Debtor and Debtor in Possession.[1]	Chapter 11 Case No. 19-36300 Re: Docket No. _____

ORDER APPROVING THE EMPLOYMENT AND RETENTION OF EAVES LAW FIRM AS SPECIAL COUNSEL

Upon consideration the application (the "***Application***")[2] filed by the above-captioned Debtor; and the Court having found that it has jurisdiction to consider the Application and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and upon consideration of the Eaves Declaration in support thereof; and the Court having found that consideration of the Application and the relief requested therein is a core proceeding pursuant to 28 U.S.C. § 157(b); and the Court having found that venue of this proceeding in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that notice of the Application as set forth therein is sufficient under the circumstances; and the Court having reviewed the Application and having considered statements in support of the Application at the hearing held before this Court (the "***Hearing***"); and the Court having determined that the legal and factual bases set forth in the Application and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor,

[1] The last four digits of the Debtor's federal tax identification number are: 0960. The location of the Debtor's service address is: Walker County Hospital Corporation d/b/a Huntsville Memorial Hospital, c/o Healthcare Management Partners, LLC, 1033 Demonbreun Street, Suite 300, Nashville, TN 37203.

[2] Capitalized terms used herein but not otherwise defined shall have the meanings ascribed to them in the Application.

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IT IS THEREFORE ORDERED:

1. The Debtor is hereby authorized, pursuant to sections 327(a) and 330 of the Bankruptcy Code, Bankruptcy Rules 2014 and 2016, and Local Rule 2014-1(b), to employ and retain Eaves to pursue the Claims on the terms set forth in the Application and the Engagement Letter, effective immediately, as modified herein, and to pay fees and reimburse expenses of Eaves related to the pursuit of the Claims on the terms and at the times specified in the Engagement Letter, subject to the modifications set forth herein.

2. The terms of the Engagement Letter, attached to the Eaves Declaration as **Exhibit 1**, are approved in all respects except as limited or modified herein.

3. The terms and obligations set forth in the Interim Compensation Procedures Order are hereby waived with respect to Eaves. Instead, Eaves shall apply for the allowance of compensation for services rendered and reimbursement of expenses incurred by filing the following: (a) upon the occurrence of any settlements with Defendants but prior to Eaves' final resolution of the Claims, short-form statements that include the amount of fees paid based on the Contingency Fee Schedule and a reasonably detailed itemization of expenses incurred and paid; and (b) upon the conclusion of its services, a final fee application for final allowance of compensation for professional services rendered and reimbursement of expenses incurred under the Engagement Letter in accordance with sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any applicable orders of this Court. Eaves shall be excused from time-keeping reporting requirements, with respect to its activities under the Engagement Letter, in applying for allowance of compensation for professional services as authorized herein.

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4. Notwithstanding anything to the contrary herein, the U.S. Trustee shall have the right to object to upon the occurrence of any settlements with Defendants but prior to Eaves' final resolution of the Claims' final fee applications (including expense reimbursement) on all grounds, including the reasonableness standard provided in section 330 of the Bankruptcy Code. Accordingly, nothing in this Order or the record shall constitute a finding of fact or conclusion of law binding the U.S. Trustee, on appeal or otherwise, with respect to the reasonableness of Eaves' fees.

5. Eaves shall use its reasonable efforts to avoid any duplication of services provided by any of the Debtor's other retained professionals in this Chapter 11 Case.

6. The relief granted herein shall be binding upon any chapter 11 trustee appointed in the Chapter 11 Case, or upon any chapter 7 trustee appointed in the event of a subsequent conversion of the Chapter 11 Case to a case under chapter 7.

7. The Debtor and Eaves are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Application.

8. Notice of the Application as provided therein is deemed to be good and sufficient notice of such Application, and the requirements of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules are satisfied by the contents of the Application.

9. To the extent the Application is inconsistent with this Order, the terms of this Order shall govern.

10. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

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11. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated: _____, 2022
Houston, Texas

_____
HONORABLE DAVID R. JONES
UNITED STATES BANKRUPTCY JUDGE

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TX-SOS-22-0155-B-000073

From: OOG News Alerts <OOG.NewsAlerts@gov.texas.gov>
Sent: Monday, January 17, 2022 9:01 AM
Subject: Morning News Clips 1.17.22
Attachments: Morning News Clips 1.17.22.pdf

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

Morning News Clips 1/17/2022

Texas Take

Texas Tribune: The Brief

Politico Playbook

Greg Abbott News

KTVT – Jack Fink: **In Fort Worth, Governor Abbott Defends His Covid-19 Response Amid Criticism From Challengers** [Web]

KBMT – James Grant and Tiana Johnson: **Texas Gov. Greg Abbott Discussed Key Issues, Controversial Topics At Beaumont Event** [Web]

State News

KXAN – Kelsey Thompson: **Texas Launches Digital Ballot-By-Mail Tracking System** [Web]

San Antonio Express News – Cayla Harris: **Donald Trump Wades Deeper Into Texas Politics With 20 Endorsements In Primary Races** [Web]

Texas Tribune – Alexa Ura: **"They Are Us. There's No Distinction": Terror Of Synagogue Standoff Is No Isolated Incident To Texas Jewish Leaders** [Web]

Business/Economy

KXAN – Candy Rodriguez: **Business Owners Continue To Face Staffing Shortages, High Food Costs As New COVID-19 Rules Go Into Effect** [Web]

Immigration/Border Security

Fox News – Adam Sabes: **Texas Border Patrol Agents Find More Than 20 Illegal Immigrants Motel 'Stash Houses'** [Web]

Health Care

AMERICAN OVERSIGHT

KMSP – Paul Blume: **Minnesota Man Battling COVID-19 Moved To Texas Hospital After Lawsuit Over Ventilator** [Web]

Opinion/Editorial

Texas Tribune – Ross Ramsey: **Analysis: The Never-Ending Fight Over Voting In The U.S.** [Web]

Newsweek – David Reaboi: **Ron DeSantis Welcomes You to Florida, America's New Texas** [Web]

# # #

AMERICAN OVERSIGHT

Greg Abbott News

In Fort Worth, Governor Abbott Defends His Covid-19 Response Amid Criticism From Challengers
By Jack Fink
KTVT

At his first campaign stop in North Texas since kicking-off his bid for a third term, Governor Greg Abbott touted the state's fast-growing economy.

During the Saturday morning event at the Fort Worth Zoo, the Governor also warned his 350 supporters they need to fight back against any effort to defund the police and open border policies. "We are not going to allow these big government socialists to destroy our great state with their radical agenda."

While Abbott is focused on the general election in November, he is facing seven challengers in the Republican primary, some of whom said they got into the race because they didn't like how the Governor responded to the pandemic early-on.

They include former Texas GOP Chair Allen West, and former State Senator Don Huffines of Dallas who have repeatedly criticized the Governor for not fully reopening the state fast enough.

Asked how he responded to their criticisms, the Governor said, "Well for one, Texas was one of the first states to open fully, 100 percent, and you've seen the economic results articulated today. Texas is leading the nation with regard to the job recovery."

This week, the likely Democratic nominee for Governor, former El Paso Congressman Beto O'Rourke criticized the Governor's response to the pandemic, along with the Mayors of Austin and Brownsville who support him. "We need augmented staff and the Governor has the power to help deploy medical professionals to critical areas around the state and he's been very slow and late to do that."

The Governor responded by saying, "We have responded to every request for additional staffing needs. Right now, Texas has provided more than 5,000 staff for hospitals and we're going to be adding another one thousand over the coming week or two. There were no unmet needs as it concerned testing equipment."

The candidates will continue to ramp-up their campaigns as the March 1 primary draws closer.

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Texas Gov. Greg Abbott Discussed Key Issues, Controversial Topics At Beaumont Event
By James Grant and Tiana Johnson
KBMT

Gov. Greg Abbott covered a multitude of key and controversial topics at a Beaumont event as he seeks re-election for his third term as Texas governor.

"From the top of the ballot to the bottom of the ballot, in Jefferson County and in the state of Texas, it will be Republicans who are going to be winning in 2022," Gov. Abbott said.

The event was held at Pour09. The Texas governor covered topics such as critical race theory in state schools and the defunding of police, both of which he is against.

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Gov. Abbott said he wants to make it a law that any Texas city that defunds police will be defunded.

“Austin, Texas defunded their police and it will come as no surprise that as a result this past year, Austin set an all-time record with the highest number of murders they've ever had,” he said.

The governor expressed his clear support for state law enforcement.

“Law enforcement in Texas alone has seized enough fentanyl to kill every man, woman and child in Texas, California, New York, Florida and Illinois combined,” he said.

The governor spoke out against President Biden’s border policy and spoke up for protecting the second amendment right of Texas citizens.

During his speech, he recognized the Golden Triangle stating that the area is vital to the state’s economy.

“Hundreds of thousands of jobs are in the energy sector in the lone star state,” he said. “Many in the region that we gather in tonight.”

Gov. Abbott claimed that Texas has one of the strongest governments in America. He compared the Texas economy to that of countries like Brazil, stating that Texas’ was stronger.

The Texas governor said more Texans have jobs than ever before in state history.

“As we gather in Jefferson County today, Texas now ranks number one in the United States as the best state in America to start a small business,” he said.

According to the Texas governor, the state’s strong economy is what draws people from out of state.

Beto O’Rourke also recognized Jefferson’s County’s importance to Texas when he stopped in Beaumont in early December of 2021.

“The golden triangle is so important for this state,” O’Rourke said. “I mean whether you're looking at energy or jobs, I've been listening to a lot of these great school teachers who are here. The future of public education you find it right here in these communities where we are today.”

Gov. Greg Abbot ended his speech by encouraging Texans to vote Republican. He said their are people running for office who hate how America the way it is.

“We cannot let them destroy our state or our country," Abbott said. "The way that we save our state and the way we protect the future of America is we band together and we start right now, tonight, in Jefferson County, working every single day all the way to next November, making sure that we beat Beto. We beat the democrats. We keep Texas red.”

Early voting starts Feb. 14 and Texas will hold its primary elections on March 1. The deadline to register to be able to vote in March 2022 is Monday, January 31, 2022.

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State News

Texas Launches Digital Ballot-By-Mail Tracking System
By Kelsey Thompson
KXAN

Voters utilizing ballot-by-mail offerings can now track the status of their ballot online with the launch of a new digital tool. The digital initiative was created through House Bill 1382 during the 87th Texas Legislature.

The digital tool lives on the Texas Secretary of State's website, under the "My Voter Portal" tab. Officials required the launch of the program come in time for the March primary elections.

State of Texas: 'People have just put it off' – Groups seek funds to help fight COVID vaccine hesitancy
"I'm excited that the statewide Ballot by Mail tracking tool is now available online through the Secretary of State's website," Rep. John Bucy III (D-Austin) said in the release. "We passed H.B. 1382 to increase accessibility, efficiency, and transparency for Texas voters. This is the type of common sense modernization needed in Texas elections."

Those using the tool will fill out their personal information into the online form, including their name, date of birth, driver's license number or Department of Public Safety I.D., address and the last four digits of their social security number. From there, the tracker will trace and report the current status of a person's ballot-by-mail application or ballot as it makes its way through the system.

To check your latest voter registration status, click on the "Am I Registered?" tab under the "My Voter Portal."

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Donald Trump Wades Deeper Into Texas Politics With 20 Endorsements In Primary Races
By Cayla Harris
San Antonio Express News

Former President Donald Trump has endorsed at least 20 candidates across Texas, throwing his political weight behind more primary hopefuls here than in any other state so far.

His endorsements have mostly been limited to incumbent GOP politicians in reliably red districts and are split about evenly between federal and state seats. Political experts say his involvement likely won't make a noticeable difference in the state's primary elections because Trump tends to back candidates who would likely be successful anyway.

Still, the former president's endorsements in Texas are the most he's made in any state, with Michigan next at 14, according to a tally kept by Ballotpedia, a nonpartisan politics tracker.

Trump's intense focus on Texas is likely linked to its political weight, experts say. Though 2022 is a midterm election year, Republicans' success here will foreshadow the political tides ahead of the next presidential contest in 2024, when Trump might run again.

"If the Republican Party doesn't have Texas, they are in deep, deep trouble for the presidency, because it's the largest treasure trove of electoral votes," said Paul Brace, a political science professor at Rice University. "Texas is the keystone to any Republican's path to the presidency. And so (Trump's) attention to Texas reflects that. Texas looms large in all Republican calculations for securing the presidency."

Plus, Texas Republicans are overwhelmingly aligned with Trump and have been willing to push his policies at all levels of government. Attorney General Ken Paxton, for example, led an unsuccessful lawsuit in 2020 to overturn presidential election results in several blue states.

And in the Legislature, state lawmakers have worked to pass Trump-backed bills that would mandate election audits in the future. Though the the measures did not pass last year, Gov. Greg Abbott directed the secretary of state's office to conduct an audit of 2020 election results in Texas' four largest counties.

Nod for Paxton

At the federal level, Trump has endorsed nine sitting members of Congress, many of them in North Texas. At the statewide level, he's backed Lt. Gov. Dan Patrick, one of his most ardent supporters, and Abbott, who faces primary challenges from the right but is widely favored to win his primary.

"Trump, at least at the top of the ticket, is not really going very far out on a limb, with maybe one exception," Brace said. "Down ballot, Trump is supporting Republican incumbents in Texas. News flash: Dog bites man. That is not really an audacious position for him to take."

That exception, potentially, is Paxton, a loyal but scandal-ridden follower of the former president. Paxton, who is under indictment on felony fraud charges and faces an FBI investigation into accusations that he accepted bribes and abused his power, faces three high-profile primary challengers: Land Commissioner George P. Bush, U.S. Rep. Louie Gohmert of Tyler and former Texas Supreme Court Justice Eva Guzman.

TRUMP'S TEXAS PRIMARY ENDORSEMENTS

The former president has endorsed 20 Texas Republicans ahead of the 2022 primary elections.

They are:

Gov. Greg Abbott

Lt. Gov. Dan Patrick

Attorney General Ken Paxton

Land Commissioner candidate Dawn Buckingham

Agriculture Commissioner Sid Miller

U.S. Rep. Michael Burgess

U.S. Rep. John Carter

U.S. Rep. Michael Cloud

U.S. Rep. Pat Fallon

U.S. Rep. Ronny Jackson

U.S. Rep. Michael McCaul

U.S. Rep. August Pfluger

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U.S. Rep. Beth Van Duyne

U.S. Rep. Roger Williams

State Sen. Angela Paxton

State Senate candidate Pete Flores

State Senate candidate Mayes Middleton

State Senate candidate Kevin Sparks

State Rep. Ryan Guillen

Tim O'Hare, candidate for Tarrant County Commissioners Court Judge

For two months, Trump teased an endorsement in the race but wouldn't commit. Bush groveled for his support, while Paxton said he was confident he would obtain it in the end.

Trump got behind Paxton in July, calling him a "patriot." In that race, Trump's seal of approval "likely will give Paxton the edge he needs against a conservative challenge within the Republican Party," Brace said.

'Plus factor' in GOP primary

For other candidates, Trump's support could provide extra content for fundraising, news releases or campaign ads, drawing in a few additional voters who already have a positive opinion of the former president.

"He's still popular among Republicans," said Richard Longoria, a political science professor at the University of Texas Rio Grande Valley. "So they're going to listen to what he says and take that for what it is."

Trump has endorsed Agriculture Commissioner Sid Miller, who is seeking a third term and faces two primary challengers, including state Rep. James White, R-Hillister. And Trump has backed state Sen. Dawn Buckingham, a Lakeway Republican vying for the Republican nomination to succeed Bush as land commissioner.

Buckingham faces an eight-way primary and has used Trump's endorsement in campaign material, touting his support in November mailers and asking recipients to "join President Trump and the many Texans already standing with me to defend Texas."

"If you already like Trump, and then the candidate says, 'Well, Trump likes me,' that's a reason for you to support their candidacy," Longoria said. "So it's basically another check on the list of plus factors for particular candidates."

In the statehouse, the former president has backed five candidates to date, including former state Sen. Pete Flores, who is making a comeback bid, and state Rep. Ryan Guillen, a South Texas Republican who converted from the Democratic Party just months ago.

Ninety-eight percent of Trump-backed candidates won their primary races in 2020. But for the most part, the candidates were incumbents or strong fundraisers who were already favored to win, Longoria added.

In some cases, Trump's approval could sway "low-information" voters — but those individuals don't tend to participate in primary elections, he said. In the end, the success rate only "makes him look good."

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"The actual effect is probably negligible," Longoria said. "If they were going to win with or without an endorsement, then it doesn't make much of a difference."

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"They Are Us. There's No Distinction": Terror Of Synagogue Standoff Is No Isolated Incident To Texas Jewish Leaders
By Alexa Ura
Texas Tribune

In the hours after a rabbi and three congregants were taken hostage at a synagogue in North Texas, Jewish leaders in Houston began planning a vigil.

They had wondered whether gathering virtually Saturday night was the right choice. At the time, they didn't know that the hostages at Congregation Beth Israel in Colleyville would be freed after a nearly 11-hour standoff. They only imagined that the attack could go through the night, said Rabbi Scott Hausman-Weiss, who was involved in the preparations. There were security measures to be considered, even for a Zoom meeting. Still, they wanted to offer comfort to their people.

The Congregation Beth Israel congregants being held captive were hundreds of miles away, but the reach of the assault was felt far and wide.

While what occurred Saturday in a small city near Fort Worth appears to have been an isolated incident, it was not a standalone occurrence, as Jewish Americans have been publicly targeted and terrorized with increased frequency in recent years.

"They are us. There's no distinction. Anywhere they are in danger, we are," Hausman-Weiss, the founding rabbi of the Congregation Shma Koleinu, said Sunday morning in an interview, describing the reverberations of attacks on Jewish communities.

On what is regularly observed as a day of rest and worship in Judaism, a man — since confirmed by authorities as a British national — took hostages during Saturday morning services at the synagogue. The hostages, including Rabbi Charlie Cytron-Walker, made it out physically unharmed while the hostage-taker was killed after a rescue team breached the building.

Shortly after news emerged that the hostages were safe, hundreds of participants logged into the Houston Zoom meeting late Saturday night for what had turned into a gathering of prayer and thanks giving. Hausman-Weiss delivered a piece he hoped would uplift a community in pain.

"We know that a broken heart can do horrific damage in the throes of seeking to be heard," Hausman-Weiss told those who had gathered. "But we will not allow this to break us. We will not allow our resolve that strives to lift all human spirits to be deterred."

The hostage-taking is the latest in a series of antisemitic attacks and incidents around Texas and the United States. From October to December, there were at least 10 antisemitic incidents in the state, primarily in Central Texas, according to the Anti-Defamation League, which advocates for justice for Jewish people.

Last fall, officials investigated a fire that caused about $25,000 in damage to an Austin synagogue. That came after students vandalized an Austin high school with swastikas, homophobic language and anti-Black racist slurs. Around the same time, about a dozen people displayed a banner targeting Jewish people at a highway

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overpass in Austin. The banner included a link to a website for an antisemitic group that the Anti-Defamation League says includes neo-Nazis. Antisemitic flyers were also recently scattered in various cities and neighborhoods in Hays County, south of Austin.

Around the United States in 2021, Jews have been threatened and attacked and their houses of worship have been vandalized. In Los Angeles, a university is responding to a slew of antisemitic remarks made by students. In Tennessee, an assistant high school principal was removed from her job in August and reassigned after posting antisemitic messages online.

Even the halls of power have featured such hate in recent months — last October, the U.S. State Department found a swastika in one of its elevators.

“What’s happening today is a whole other level, when human life is at risk,” Renee Lafair, regional director for the Anti-Defamation League in Austin, said Saturday afternoon while the hostages were still held captive at Beth Israel. “I think when you see a series of antisemitic incidents that grow in frequency and grow in scope and danger, for a lot of people in the Jewish community this brings fears of greater societal issues and harkens back to some of our history, so it makes people concerned and scared.

“When antisemitism increases, it’s usually a sign of greater issues of hate and division going on in society.”

Responses to the standoff in Colleyville on Saturday underscored how the sense of danger to other Jewish communities was not as isolated as the hostage-taking in Colleyville appeared to be.

Law enforcement in other Texas communities, including Fort Worth and Harris County, said they were increasing patrols around synagogues. Similar precautionary measures were taken in large cities like Los Angeles. Other Jewish leaders in Texas took to Facebook to alert congregants. Rabbi Mara Nathan of San Antonio’s Temple Beth-El wrote that while the hostage-taking in Colleyville appeared to be an “isolated event perpetuated by a single actor,” they would maintain a “heightened sense of security.”

Security conversations around places of worship have in recent years taken place in the shadow of deadly attacks, like the 2018 shooting at the Tree of Life Congregation in Pittsburgh, in which an armed man shouting antisemitic slurs opened fired inside the synagogue and killed 11 congregants.

In a statement released Sunday afternoon, Cytron-Walker, the Colleyville rabbi, pointed to multiple security courses he and his congregation had received as the reason he and other hostages survived.

“In the last hour of our hostage crisis, the gunman became increasingly belligerent and threatening,” Cytron-Walker said. “Without the instruction we received, we would not have been prepared to act and flee when the situation presented itself."

Local Dallas television station WFAA captured video showing people running out a door of the synagogue, followed by a man, who appears to be holding a gun, who opens the same door and then closes it.

News reports have indicated the hostage-taker demanded the release of Aafia Siddiqui, a Pakistani neuroscientist who is in federal prison in Texas after being convicted of attempting to kill U.S. soldiers, though an attorney for Siddiqui has since condemned “any violence perpetrated” in her name. FBI officials have said the hostage-taker was “singularly focused on one issue and it was not specifically related to the Jewish community.”

But the hostage-taker’s decision to choose a synagogue as the place to carry out his demands cannot be separated from antisemitism, Jewish leaders in Texas said on Sunday.

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“The expression wasn’t antisemitic, but it was built on some concept of antisemitism,” said Rabbi Joshua Fixler, an associate rabbi at Congregation Emanu El in Houston.
“I do think that sometimes there can be a setting aside of antisemitism as not a serious of concern as other issues and other hatreds and that is one of the things that leads Jews to continue to be threatened by antisemitism,” Fixler said.

On Sunday, President Joe Biden called the hostage situation in Colleyville an “act of terror” and denounced acts driven by antisemitism. Gov. Greg Abbott did not explicitly denounce antisemitism immediately following the attack, though he announced the escape of the hostages Saturday night in a post on Twitter, saying prayers were answered. On Sunday, Abbott also said on Twitter that he had spoken to Israeli Prime Minister Naftali Bennett.

On Sunday, Jewish leaders around Texas acknowledged that the fear renewed by the hostage situation could affect congregants’ willingness to return to in-person services. It would take time to understand the full impact on their congregations and communities and the work that would be needed to support them, they said.

“This is a day of both gratitude and recognition of the layered feelings of fear,” said Rabbi Kim Herzog Cohen of Temple Emanu-El Dallas. “I think we have to continue to support each other and the incredible wisdom of our faith traditions to guide us in how to be able to give each other courage and speak the truth of our souls and our hearts to understand what are the systemic reasons [behind why] extremism and hatred can grow.”

The reach of Saturday’s hostage-taking has already stretched beyond Texas and even the United States.

"Once again, Jews have come under attack simply because they are Jews,” Shimon Koffler Fogel, the CEO of the Canada-based Centre for Israel and Jewish Affairs, said in a statement. “While Texas feels like it is far from Canada, incidents like this have a serious impact on Jews around the world who will have emerged from the Sabbath this week with two thoughts. One of horror and concern for their fellow Jews; and one of relief that this week, it wasn't their synagogue that was targeted.

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Business/Economy

Business Owners Continue To Face Staffing Shortages, High Food Costs As New COVID-19 Rules Go Into Effect
By Candy Rodriguez
KXAN

Starting Monday, Austin businesses are being told to follow the city’s new COVID-19 orders or face a fine of $1,000. However, Gov. Greg Abbott says business owners should not worry about it.

The new rule goes into effect at noon Monday. The city is requiring businesses to put up signs about vaccines and masking. One of the signs encourages masks and vaccines in general. The other sign shows customers the COVID precautions businesses are taking. Businesses that fail to put up the signs could face a hefty fine each day they do not have the signs up.

AISD give substitutes a raise, offers more incentives to work during COVID-19 surge
The state says this order is in violation of state law so the rules don’t need to be followed.

Yet, this is not the only challenge business owners are facing. Staffing shortages and supply chain issues are leaving some on the brink of closure.

In east Austin, Longhorn Daquiris is in need of workers.

The daiquiri shop and seafood restaurant owner Andrea Villescaz has a location in Austin and San Marcos. She said they are looking for around 15 people or more to hire from cashiers, cooks, and even a delivery driver. They need the help as several of their employees are currently out sick and quarantined. The lack of workers has the owner and her family working around the clock to fill in the gaps. In hopes of attracting new employees, they've increased the pay from $10 dollars an hour to $13.

They are not the only ones, several other businesses have done the same rising wages as high as $20 an hour.

However, the staffing shortage issue they've been facing for the last four months is not the only challenge. Villescaz says they are also dealing with a rise in food costs.

Central Texas universities begin semester virtually, anticipating COVID-19 surge
"It's already gone up like triple the inflation so it's hard to even still have anywhere near the same profit margin, it's really hard," Villescaz said. "If you raise the price a little bit and then you upset the people and it's like we're stuck in a hard spot."

In December, those at the Texas Restaurant Association conducted a study where they found that nearly 80% of restaurants across the state have reported they do not have enough employees.

"It's a real struggle those food costs and labor costs are up between 80% to 90% for our restaurant operators across the state compared to pre-pandemic numbers," explained Kelsey Erickson Streufert with the association.

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Immigration/Border Security

Texas Border Patrol Agents Find More Than 20 Illegal Immigrants Motel 'Stash Houses'
By Adam Sabes
Fox News

More than 20 illegal immigrants were found in a Texas motel where rooms were being used as "stash houses."

Officials from the U.S. Border Patrol and the Texas Department of Public Safety found more than 20 illegal immigrants in multiple rooms of a Laredo motel on Jan. 13, according to the U.S. Border Patrol Laredo Sector.

Authorities were responding to a report of "suspicious activity" at the motel when the discovery was made.

"During the morning of Jan. 13, #TXDPS troopers and U.S. Border Patrol agents responded to a report of suspicious activity at a local motel in central Laredo. Once on scene, agents and troopers encountered over 20 undocumented individuals in multiple rooms of the motel," a Facebook post from the US Border Patrol Laredo Sector said.

The U.S. Border Patrol Laredo Sector also said that their agents and law enforcement partners "remain vigilant for actions by the criminal elements that attempt to exploit those they seek to smuggle for profit."

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Just two days earlier, the U.S. Border Patrol Laredo Sector also announced that agents stopped a narcotics smuggling attempt and seized almost 400 lbs. of marijuana.
Border patrol agents were responding to a report of a suspicious vehicle on Jan. 10 in Laredo and found an abandoned SUV after it ran into a traffic sign.

Agents found five bundles of marijuana inside the vehicle, which is estimated to have a street value of $313,040 and weighs 391 lbs.

"Laredo Sector Border Patrol agents continue to secure the Nation's borders and prevent the smuggling of drugs into the country. Part of their mission is to target and investigate potential violators of the law and stop transnational criminal organizations from their illegally [sic] activities by utilizing state-of-the-art intelligence data, equipment, collection, and analytics to coordinate the seizure of contraband before it can be distributed in our communities," the Facebook post said.

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Health Care

Minnesota Man Battling COVID-19 Moved To Texas Hospital After Lawsuit Over Ventilator
By Paul Blume
KMSP

A Buffalo, Minnesota man suffering from a devastating case of COVID-19 is in Texas where his family is hoping and praying doctors there can save his life.

Scott Quiner's family went to court last week to get a restraining order to keep Allina Health from pulling the plug on the ventilator that was keeping him alive in Minnesota.

Minnesota man battling COVID-19 moved to Texas hospital after ventilator lawsuit
A man battling COVID-19 has been moved to a Texas facility for new treatment, after his family sued to block a Minnesota hospital from removing him from a ventilator.

FOX 9 does not have all the specifics of Quiner's medical records, but his loved ones and their attorney report the 55-year old father of three was unvaccinated when he was first diagnosed with COVID-19 in late October, around Halloween.

He required deep sedation, a breathing tube, and a ventilator when his oxygen levels got dangerously low and did not improve.

Scott's wife, Anne Quiner claims Allina threatened to pull the plug on that ventilator last week and that is when she went to court to fight.

Anne has power of attorney over Scott's healthcare decisions. She hired lawyer Marjorie Holsten to stop Allina from pulling the plug on the ventilator, a move she believes would have killed him.

"This is a life-saving thing. It is going to be critical," explained Holsten, who admits she has never handled a case like this one.

The Quiners have stated in public comments and social media that Allina would not treat Scott with certain drugs, nor would they attempt other extraordinary measures that might save his life. When the medical team

allegedly told the family that Scott had just a couple more days on the ventilator, Holsten rushed to court to obtain the restraining order. The judge signed it Thursday.

"It was mentioned on Monday, confirmed on Tuesday," said Holsten. "By Tuesday, they said, ok, Thursday at noon, we pull the plug. I don't think the judge wanted to be on the wrong side of saying, 'Of course, you should be able to pull the plug' so the judge was correct doing that."

Over the weekend, Scott was transferred on a med flight to an unidentified hospital in Texas, apparently willing to meet the family's medical wishes for life-saving treatments. By Sunday evening, he was already said to be improving on the ventilator while being weaned from the heavy sedatives, and provided extra nutrients.

His family claims that it appears most of his major organs are functioning well, except his lungs.

"I think the world is watching what is going on with Scott," Holsten told FOX 9's Paul Blume. "And as he gets better and better, we are going to see that you know what, there are protocols that should be used that hospitals have not been using. And I am hoping that changes are going to be made as a result of this case."

Allina would not discuss specifics of Quiner's medical condition and case history, but provided FOX 9 with a brief written statement that read in part: "Allina Health is grateful the family was able to find a health care facility that meets their needs and we continue to wish them all the best."

Meantime, the Quiners have raised tens of thousands of dollars for Scott's emergency, life-saving care through a pair of online fundraisers in recent days, boosted by significant online coverage of his case.

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Opinion/Editorial

Analysis: The Never-Ending Fight Over Voting In The U.S.
By Ross Ramsey
Texas Tribune

On the national holiday celebrating Martin Luther King Jr., more than 53 years after his assassination in 1968, voting rights remain in the center ring of American politics.

With the party primary season already underway, Texas is busy in court, defending restrictive new voting laws and challenges to new political maps for its congressional delegation, the state Legislature and the State Board of Education that were drawn after the 2020 census.

The state's eligible voters have two more weeks to register in time to vote in those primaries. Early voting begins in four weeks. The March 1 primary elections are in six weeks.

But the rules of engagement are still being debated in the courts, in Congress and in the campaigns themselves.

The state of Texas was sued over its new political maps before the governor had signed them — a signal that the never-ending cycle of litigation over redistricting is alive and well. That early suit wasn't unexpected in a state that has been caught violating protections for voters of color in every decade since the Voting Rights Act took effect in 1965. A second lawsuit challenging the maps landed right after Gov. Greg Abbott signed the legislation, and the U.S. Department of Justice later joined the dogpile.

That litigation will likely last for years. In the short term, an adverse court ruling could force the state to delay its primary elections while the maps are revised or replaced. That's what happened before the 2012 elections that followed redistricting.

This year's candidates have already filed for office; drawing new maps and delaying the primary could reopen the filing to new people.

The restrictions on voting approved by legislators and the governor during last year's special sessions have also gone to court. Those are statewide changes, spurred by pandemic-inspired voting practices in 2020 in the state's biggest county, like drive-thru voting, 24-hour voting and sending mail-in ballot applications to all registered voters, whether they requested them or not.

That legislation prompted Democrats in the Texas House to walk out at the end of the regular session to prevent a vote, and later, to leave the state for Washington, D.C., to block consideration in special sessions.

One reason they chose Washington was to lobby members of Congress to pass voting legislation that would override legislation like what was then being considered in Texas.

Congress didn't get to it until late last year, after the Texas legislation had passed — and after opponents filed federal lawsuits to stop it.

That has turned into the imbroglio of the month, as the White House and the U.S. Senate have locked horns over Democrats' proposed overhaul of the country's electoral system.

Politico pulled together a lengthy list of ideas now included in the federal bill, which has grown to more than 700 pages.

It would require same-day voter registration and automatic registration when people get their driver's licenses, expanding vote-by-mail options to all voters, adding to the list of documents that can be used for voter ID, and barring restrictions on food and water for people waiting in line to vote.

It would make Election Day a federal holiday and reinstate "preclearance" laws that require states with histories of discrimination — like Texas — to get federal permission before putting new voting and election laws in place.

It would ban partisan gerrymandering, the practice of drawing political maps to unfairly favor one political party and hobble another.

It would make it more difficult to interfere with or harass the people who count votes, keep most voting machinery disconnected from the internet and require paper ballots in most systems.

It even gets into campaign finance, attempting to force disclosure from organizations that currently don't have to disclose their sources of funds — so-called dark money operations.

That bill is in trouble, with Senate Republicans holding firm against it and a couple of Democrats whose votes are critical saying they will not support it. The Texas Democratic legislators who decamped to Washington to lobby for it may be in for another disappointment.

In the meantime, the state's new voting and election laws remain in effect and, like the political maps, in the hands of federal judges who will decide whether state and federal lawmakers are fortifying or dismantling Americans' and Texans' right to vote.

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It was a fight 50 years ago, and it still is.

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Ron DeSantis Welcomes You to Florida, America's New Texas
By David Reaboi
Newsweek

For conservatives all over the world, Texas has long been something of a promised land, boasting decades of government policy hospitable to freedom and the kind of straight-talking, kind people who'd greet you warmly even on a busy street. It's a place well-known for a rugged toughness, an embrace of tradition and a fearless independent streak.

Considering also the romantic notions that have attached to that state since films began to romanticize the Wild West over the last century, it's remarkable that Texas' once-nonpareil position in the conservative imagination has been displaced so quickly—and by a place that was long thought of as a blue-leaning swing state.

By last week, when Governor Ron DeSantis gave his State of the State Address in Tallahassee, Florida had already eclipsed Texas as the most energetic, forward-looking red state in America, having captured the imagination of hundreds of thousands of conservatives who have flocked here—and millions in other states and countries who are watching, often jealously, from afar. (Even from Texas.)

DeSantis' insistence on protecting normal life in Florida through the COVID insanity of the last two years has distinguished him in American politics. Through his own stubborn resistance to what he has called "blind adherence to Faucian declarations," he has made Florida a true beacon of sanity. By now, every Floridian knows how this happened, and most will never forget it.

In March 2020, the nation was in the grip of COVID hysteria, and America was locked down. In every state, stores, offices and factories closed as workers and business owners struggled to prove to nameless mandarins that their very livelihoods qualify as "essential." President Donald Trump, while skeptical of Anthony Fauci's edicts, nevertheless cowed to the pressure of the media and allowed his chief medical advisor to promote draconian lockdown policies.

Absurdly, gyms and even public beaches and parks boarded up. Violators of local COVID-inspired rules and closures were slapped with massive fines. As crime initially dropped during the lockdowns, municipalities repurposed their police forces as lockdown enforcers—levying massive fines on businesses that dared to open or allow customers to enter without masks.

Conservatives were shocked that, even in the liberty-minded Lone Star State, people's lives were being crushed by power-mad politicians. In Dallas, Shelley Luther was issued a large fine and was then jailed merely for keeping her hair salon open. Fearing the backlash from a lockdown-obsessed national and local media, Texas Governor Greg Abbott vacillated, failing to decisively bring the state back to normal.

As every conservative knows, things unfolded differently in Florida. By mid-June 2020, Governor DeSantis had had enough—both of lockdowns and the local municipalities that were raising millions in punitive fines for violating the lockdowns and mandates, especially in blue-leaning parts of South Florida.

DeSantis couldn't order those municipalities to relax their COVID restrictions, but he could make it impossible for the offending towns to profit from them. The governor's Executive Order 21-133 gave amnesty to thousands of businesses and individuals that had been swamped with millions in debilitating local fines.

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Immediately, even the last cities that were holdouts to draconian COVID restrictions began to relax. Restaurant owners could begin to operate without the local police looking over their shoulders; gyms could be free of law enforcement spot-checking mask compliance. Florida, suddenly, was open for business again.

"In Florida," the governor said last week, "we have protected the right of our citizens to earn a living, provided our businesses with the ability to prosper, fought back against unconstitutional federal mandates and ensured our kids have the opportunity to thrive." By design, his state has "become the escape hatch for those chafing under authoritarian, arbitrary and seemingly never-ending mandates and restrictions."

Watching DeSantis' example in Florida—and in the absence of leadership in the White House—voters in Texas and other red states slowly began to demand similar measures. It's not an exaggeration to postulate that, had DeSantis not been as decisive and fearless in his own early-stage COVID actions in Florida, governors and other officeholders in even the most conservative states would not have had the courage to open and return to normal for many more months.

Of course, the governor's leadership on COVID has defined his first term in office, but that alone doesn't account for his near-universal popularity with Republican voters. Several clips from DeSantis' speech last week spread far and wide on social media. Thanks to his competence and resistance to intense pressure from Democrats and the corporate media across a whole host of issues, the governor has become America's de facto conservative leader. Accordingly, his State of the State Address last week was greeted—especially on Twitter—like a national event.

Troublingly for Trump loyalists in Mar-a-Lago, the enthusiasm with which Republicans across the country greet a new statement or memorable, combative press conference from DeSantis indicates that the governor has filled the void in what was previously seen as the party of Donald Trump.

DeSantis has taken the reins with creative, aggressive policy solutions to many of the issues left unaddressed over the four years of the Trump administration. The governor's tangible solutions to hot-button issues such as critical race theory indoctrination, election integrity, Big Tech censorship, protecting the unborn and immigration—all elaborated in his State of the State Address—stand in stark contrast to the former president's notable inability to do more than simply talk about them.

In a way, DeSantis' recent speech brought back memories of early 2009, when, also left without a national Republican figure in office, conservatives thrilled to the late Rush Limbaugh's speech at that year's Conservative Political Action Conference. That speech didn't catapult Limbaugh to national political office, but it did signal that what Rush called the "titular head of the Republican Party" was up for grabs.

What the political future looks like for Florida's governor is hard to tell. DeSantis isn't running for president—as far as we know. And Trump hasn't specifically announced his intentions. But in the last two years, the governor has captured the imagination and support of many millions, both inside and outside Florida.

Even as many blue state conservatives (and especially Californians) decamp to Texas, with both Trump and DeSantis in Florida, there can be no denying the gravitational pull the Sunshine State now has for the American Right. There is a sense here that this place is the future, especially as GOP voter registration has now overtaken Democratic voter registration for the first time in the state's history. Most Florida Republicans have no doubt who to thank for that.

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Greg Abbott News

In Fort Worth, Governor Abbott Defends His Covid-19 Response Amid Criticism From Challengers
By Jack Fink
KTVT

At his first campaign stop in North Texas since kicking-off his bid for a third term, Governor Greg Abbott touted the state's fast-growing economy.

During the Saturday morning event at the Fort Worth Zoo, the Governor also warned his 350 supporters they need to fight back against any effort to defund the police and open border policies. "We are not going to allow these big government socialists to destroy our great state with their radical agenda."

While Abbott is focused on the general election in November, he is facing seven challengers in the Republican primary, some of whom said they got into the race because they didn't like how the Governor responded to the pandemic early-on.

They include former Texas GOP Chair Allen West, and former State Senator Don Huffines of Dallas who have repeatedly criticized the Governor for not fully reopening the state fast enough.

Asked how he responded to their criticisms, the Governor said, "Well for one, Texas was one of the first states to open fully, 100 percent, and you've seen the economic results articulated today. Texas is leading the nation with regard to the job recovery."

This week, the likely Democratic nominee for Governor, former El Paso Congressman Beto O'Rourke criticized the Governor's response to the pandemic, along with the Mayors of Austin and Brownsville who support him. "We need augmented staff and the Governor has the power to help deploy medical professionals to critical areas around the state and he's been very slow and late to do that."

The Governor responded by saying, "We have responded to every request for additional staffing needs. Right now, Texas has provided more than 5,000 staff for hospitals and we're going to be adding another one thousand over the coming week or two. There were no unmet needs as it concerned testing equipment."

The candidates will continue to ramp-up their campaigns as the March 1 primary draws closer.

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Texas Gov. Greg Abbott Discussed Key Issues, Controversial Topics At Beaumont Event

By James Grant and Tiana Johnson
KBMT

Gov. Greg Abbott covered a multitude of key and controversial topics at a Beaumont event as he seeks re-election for his third term as Texas governor.

”From the top of the ballot to the bottom of the ballot, in Jefferson County and in the state of Texas, it will be Republicans who are going to be winning in 2022,” Gov. Abbott said.

The event was held at Pour09. The Texas governor covered topics such as critical race theory in state schools and the defunding of police, both of which he is against.

Gov. Abbott said he wants to make it a law that any Texas city that defunds police will be defunded.

“Austin, Texas defunded their police and it will come as no surprise that as a result this past year, Austin set an all-time record with the highest number of murders they've ever had,” he said.

The governor expressed his clear support for state law enforcement.

“Law enforcement in Texas alone has seized enough fentanyl to kill every man, woman and child in Texas, California, New York, Florida and Illinois combined,” he said.

The governor spoke out against President Biden’s border policy and spoke up for protecting the second amendment right of Texas citizens.

During his speech, he recognized the Golden Triangle stating that the area is vital to the state’s economy.

“Hundreds of thousands of jobs are in the energy sector in the lone star state,” he said. “Many in the region that we gather in tonight.”

Gov. Abbott claimed that Texas has one of the strongest governments in America. He compared the Texas economy to that of countries like Brazil, stating that Texas’ was stronger.

The Texas governor said more Texans have jobs than ever before in state history.

“As we gather in Jefferson County today, Texas now ranks number one in the United States as the best state in America to start a small business,” he said.

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According to the Texas governor, the state's strong economy is what draws people from out of state.

Beto O'Rourke also recognized Jefferson's County's importance to Texas when he stopped in Beaumont in early December of 2021.

"The golden triangle is so important for this state," O'Rourke said. "I mean whether you're looking at energy or jobs, I've been listening to a lot of these great school teachers who are here. The future of public education you find it right here in these communities where we are today."

Gov. Greg Abbot ended his speech by encouraging Texans to vote Republican. He said their are people running for office who hate how America the way it is.

"We cannot let them destroy our state or our country," Abbott said. "The way that we save our state and the way we protect the future of America is we band together and we start right now, tonight, in Jefferson County, working every single day all the way to next November, making sure that we beat Beto. We beat the democrats. We keep Texas red."

Early voting starts Feb. 14 and Texas will hold its primary elections on March 1. The deadline to register to be able to vote in March 2022 is Monday, January 31, 2022.

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State News

Texas Launches Digital Ballot-By-Mail Tracking System
By Kelsey Thompson
KXAN

Voters utilizing ballot-by-mail offerings can now track the status of their ballot online with the launch of a new digital tool. The digital initiative was created through House Bill 1382 during the 87th Texas Legislature.

The digital tool lives on the Texas Secretary of State's website, under the "My Voter Portal" tab. Officials required the launch of the program come in time for the March primary elections.

State of Texas: 'People have just put it off' – Groups seek funds to help fight COVID vaccine hesitancy
"I'm excited that the statewide Ballot by Mail tracking tool is now available online through the Secretary of State's website," Rep. John Bucy III (D-Austin) said in the release. "We passed H.B. 1382 to increase accessibility, efficiency, and transparency for Texas voters. This is the type of common sense modernization needed in Texas elections."

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Those using the tool will fill out their personal information into the online form, including their name, date of birth, driver's license number or Department of Public Safety I.D., address and the last four digits of their social security number. From there, the tracker will trace and report the current status of a person's ballot-by-mail application or ballot as it makes its way through the system.

To check your latest voter registration status, click on the "Am I Registered?" tab under the "My Voter Portal."

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Donald Trump Wades Deeper Into Texas Politics With 20 Endorsements In Primary Races
By Cayla Harris
San Antonio Express News

Former President Donald Trump has endorsed at least 20 candidates across Texas, throwing his political weight behind more primary hopefuls here than in any other state so far.

His endorsements have mostly been limited to incumbent GOP politicians in reliably red districts and are split about evenly between federal and state seats. Political experts say his involvement likely won't make a noticeable difference in the state's primary elections because Trump tends to back candidates who would likely be successful anyway.

Still, the former president's endorsements in Texas are the most he's made in any state, with Michigan next at 14, according to a tally kept by Ballotpedia, a nonpartisan politics tracker.

Trump's intense focus on Texas is likely linked to its political weight, experts say. Though 2022 is a midterm election year, Republicans' success here will foreshadow the political tides ahead of the next presidential contest in 2024, when Trump might run again.

"If the Republican Party doesn't have Texas, they are in deep, deep trouble for the presidency, because it's the largest treasure trove of electoral votes," said Paul Brace, a political science professor at Rice University. "Texas is the keystone to any Republican's path to the presidency. And so (Trump's) attention to Texas reflects that. Texas looms large in all Republican calculations for securing the presidency."

Plus, Texas Republicans are overwhelmingly aligned with Trump and have been willing to push his policies at all levels of government. Attorney General Ken Paxton, for example, led an unsuccessful lawsuit in 2020 to overturn presidential election results in several blue states.

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And in the Legislature, state lawmakers have worked to pass Trump-backed bills that would mandate election audits in the future. Though the the measures did not pass last year, Gov. Greg Abbott directed the secretary of state's office to conduct an audit of 2020 election results in Texas' four largest counties.

Nod for Paxton

At the federal level, Trump has endorsed nine sitting members of Congress, many of them in North Texas. At the statewide level, he's backed Lt. Gov. Dan Patrick, one of his most ardent supporters, and Abbott, who faces primary challenges from the right but is widely favored to win his primary.

"Trump, at least at the top of the ticket, is not really going very far out on a limb, with maybe one exception," Brace said. "Down ballot, Trump is supporting Republican incumbents in Texas. News flash: Dog bites man. That is not really an audacious position for him to take."

That exception, potentially, is Paxton, a loyal but scandal-ridden follower of the former president. Paxton, who is under indictment on felony fraud charges and faces an FBI investigation into accusations that he accepted bribes and abused his power, faces three high-profile primary challengers: Land Commissioner George P. Bush, U.S. Rep. Louie Gohmert of Tyler and former Texas Supreme Court Justice Eva Guzman.

TRUMP'S TEXAS PRIMARY ENDORSEMENTS

The former president has endorsed 20 Texas Republicans ahead of the 2022 primary elections.

They are:

Gov. Greg Abbott

Lt. Gov. Dan Patrick

Attorney General Ken Paxton

Land Commissioner candidate Dawn Buckingham

Agriculture Commissioner Sid Miller

U.S. Rep. Michael Burgess

U.S. Rep. John Carter

U.S. Rep. Michael Cloud

U.S. Rep. Pat Fallon

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U.S. Rep. Ronny Jackson

U.S. Rep. Michael McCaul

U.S. Rep. August Pfluger

U.S. Rep. Beth Van Duyne

U.S. Rep. Roger Williams

State Sen. Angela Paxton

State Senate candidate Pete Flores

State Senate candidate Mayes Middleton

State Senate candidate Kevin Sparks

State Rep. Ryan Guillen

Tim O'Hare, candidate for Tarrant County Commissioners Court Judge

For two months, Trump teased an endorsement in the race but wouldn't commit. Bush groveled for his support, while Paxton said he was confident he would obtain it in the end.

Trump got behind Paxton in July, calling him a "patriot." In that race, Trump's seal of approval "likely will give Paxton the edge he needs against a conservative challenge within the Republican Party," Brace said.

'Plus factor' in GOP primary

For other candidates, Trump's support could provide extra content for fundraising, news releases or campaign ads, drawing in a few additional voters who already have a positive opinion of the former president.

"He's still popular among Republicans," said Richard Longoria, a political science professor at the University of Texas Rio Grande Valley. "So they're going to listen to what he says and take that for what it is."

Trump has endorsed Agriculture Commissioner Sid Miller, who is seeking a third term and faces two primary challengers, including state Rep. James White, R-Hillister. And Trump has backed state Sen. Dawn Buckingham, a Lakeway Republican vying for the Republican nomination to succeed Bush as land commissioner.

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Buckingham faces an eight-way primary and has used Trump's endorsement in campaign material, touting his support in November mailers and asking recipients to "join President Trump and the many Texans already standing with me to defend Texas."

"If you already like Trump, and then the candidate says, 'Well, Trump likes me,' that's a reason for you to support their candidacy," Longoria said. "So it's basically another check on the list of plus factors for particular candidates."

In the statehouse, the former president has backed five candidates to date, including former state Sen. Pete Flores, who is making a comeback bid, and state Rep. Ryan Guillen, a South Texas Republican who converted from the Democratic Party just months ago.

Ninety-eight percent of Trump-backed candidates won their primary races in 2020. But for the most part, the candidates were incumbents or strong fundraisers who were already favored to win, Longoria added.

In some cases, Trump's approval could sway "low-information" voters — but those individuals don't tend to participate in primary elections, he said. In the end, the success rate only "makes him look good."

"The actual effect is probably negligible," Longoria said. "If they were going to win with or without an endorsement, then it doesn't make much of a difference."

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"They Are Us. There's No Distinction": Terror Of Synagogue Standoff Is No Isolated Incident To Texas Jewish Leaders
By Alexa Ura
Texas Tribune

In the hours after a rabbi and three congregants were taken hostage at a synagogue in North Texas, Jewish leaders in Houston began planning a vigil.

They had wondered whether gathering virtually Saturday night was the right choice. At the time, they didn't know that the hostages at Congregation Beth Israel in Colleyville would be freed after a nearly 11-hour standoff. They only imagined that the attack could go through the night, said Rabbi Scott Hausman-Weiss, who was involved in the preparations. There were security measures to be considered, even for a Zoom meeting. Still, they wanted to offer comfort to their people.

The Congregation Beth Israel congregants being held captive were hundreds of miles away, but the reach of the assault was felt far and wide.

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While what occurred Saturday in a small city near Fort Worth appears to have been an isolated incident, it was not a standalone occurrence, as Jewish Americans have been publicly targeted and terrorized with increased frequency in recent years.

“They are us. There’s no distinction. Anywhere they are in danger, we are,” Hausman-Weiss, the founding rabbi of the Congregation Shma Koleinu, said Sunday morning in an interview, describing the reverberations of attacks on Jewish communities.

On what is regularly observed as a day of rest and worship in Judaism, a man — since confirmed by authorities as a British national — took hostages during Saturday morning services at the synagogue. The hostages, including Rabbi Charlie Cytron-Walker, made it out physically unharmed while the hostage-taker was killed after a rescue team breached the building.

Shortly after news emerged that the hostages were safe, hundreds of participants logged into the Houston Zoom meeting late Saturday night for what had turned into a gathering of prayer and thanks giving. Hausman-Weiss delivered a piece he hoped would uplift a community in pain.

“We know that a broken heart can do horrific damage in the throes of seeking to be heard,” Hausman-Weiss told those who had gathered. “But we will not allow this to break us. We will not allow our resolve that strives to lift all human spirits to be deterred.”

The hostage-taking is the latest in a series of antisemitic attacks and incidents around Texas and the United States. From October to December, there were at least 10 antisemitic incidents in the state, primarily in Central Texas, according to the Anti-Defamation League, which advocates for justice for Jewish people.

Last fall, officials investigated a fire that caused about $25,000 in damage to an Austin synagogue. That came after students vandalized an Austin high school with swastikas, homophobic language and anti-Black racist slurs. Around the same time, about a dozen people displayed a banner targeting Jewish people at a highway overpass in Austin. The banner included a link to a website for an antisemitic group that the Anti-Defamation League says includes neo-Nazis. Antisemitic flyers were also recently scattered in various cities and neighborhoods in Hays County, south of Austin.

Around the United States in 2021, Jews have been threatened and attacked and their houses of worship have been vandalized. In Los Angeles, a university is responding to a slew of antisemitic remarks made by students. In Tennessee, an assistant high school principal was removed from her job in August and reassigned after posting antisemitic messages online.

Even the halls of power have featured such hate in recent months — last October, the U.S. State Department found a swastika in one of its elevators.

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“What’s happening today is a whole other level, when human life is at risk,” Renee Lafair, regional director for the Anti-Defamation League in Austin, said Saturday afternoon while the hostages were still held captive at Beth Israel. “I think when you see a series of antisemitic incidents that grow in frequency and grow in scope and danger, for a lot of people in the Jewish community this brings fears of greater societal issues and harkens back to some of our history, so it makes people concerned and scared.

“When antisemitism increases, it’s usually a sign of greater issues of hate and division going on in society.”

Responses to the standoff in Colleyville on Saturday underscored how the sense of danger to other Jewish communities was not as isolated as the hostage-taking in Colleyville appeared to be.

Law enforcement in other Texas communities, including Fort Worth and Harris County, said they were increasing patrols around synagogues. Similar precautionary measures were taken in large cities like Los Angeles. Other Jewish leaders in Texas took to Facebook to alert congregants. Rabbi Mara Nathan of San Antonio’s Temple Beth-El wrote that while the hostage-taking in Colleyville appeared to be an “isolated event perpetuated by a single actor,” they would maintain a “heightened sense of security.”

Security conversations around places of worship have in recent years taken place in the shadow of deadly attacks, like the 2018 shooting at the Tree of Life Congregation in Pittsburgh, in which an armed man shouting antisemitic slurs opened fired inside the synagogue and killed 11 congregants.

In a statement released Sunday afternoon, Cytron-Walker, the Colleyville rabbi, pointed to multiple security courses he and his congregation had received as the reason he and other hostages survived.

“In the last hour of our hostage crisis, the gunman became increasingly belligerent and threatening,” Cytron-Walker said. “Without the instruction we received, we would not have been prepared to act and flee when the situation presented itself."

Local Dallas television station WFAA captured video showing people running out a door of the synagogue, followed by a man, who appears to be holding a gun, who opens the same door and then closes it.

News reports have indicated the hostage-taker demanded the release of Aafia Siddiqui, a Pakistani neuroscientist who is in federal prison in Texas after being convicted of attempting to kill U.S. soldiers, though an attorney for Siddiqui has since condemned “any violence perpetrated” in her name. FBI officials have said the hostage-taker was “singularly focused on one issue and it was not specifically related to the Jewish community.”

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But the hostage-taker's decision to choose a synagogue as the place to carry out his demands cannot be separated from antisemitism, Jewish leaders in Texas said on Sunday.

"The expression wasn't antisemitic, but it was built on some concept of antisemitism," said Rabbi Joshua Fixler, an associate rabbi at Congregation Emanu El in Houston. "I do think that sometimes there can be a setting aside of antisemitism as not a serious of concern as other issues and other hatreds and that is one of the things that leads Jews to continue to be threatened by antisemitism," Fixler said.

On Sunday, President Joe Biden called the hostage situation in Colleyville an "act of terror" and denounced acts driven by antisemitism. Gov. Greg Abbott did not explicitly denounce antisemitism immediately following the attack, though he announced the escape of the hostages Saturday night in a post on Twitter, saying prayers were answered. On Sunday, Abbott also said on Twitter that he had spoken to Israeli Prime Minister Naftali Bennett.

On Sunday, Jewish leaders around Texas acknowledged that the fear renewed by the hostage situation could affect congregants' willingness to return to in-person services. It would take time to understand the full impact on their congregations and communities and the work that would be needed to support them, they said.

"This is a day of both gratitude and recognition of the layered feelings of fear," said Rabbi Kim Herzog Cohen of Temple Emanu-El Dallas. "I think we have to continue to support each other and the incredible wisdom of our faith traditions to guide us in how to be able to give each other courage and speak the truth of our souls and our hearts to understand what are the systemic reasons [behind why] extremism and hatred can grow."

The reach of Saturday's hostage-taking has already stretched beyond Texas and even the United States.

"Once again, Jews have come under attack simply because they are Jews," Shimon Koffler Fogel, the CEO of the Canada-based Centre for Israel and Jewish Affairs, said in a statement. "While Texas feels like it is far from Canada, incidents like this have a serious impact on Jews around the world who will have emerged from the Sabbath this week with two thoughts. One of horror and concern for their fellow Jews; and one of relief that this week, it wasn't their synagogue that was targeted.

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Business/Economy

Business Owners Continue To Face Staffing Shortages, High Food Costs As New COVID-19 Rules Go Into Effect
By Candy Rodriguez
KXAN

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Starting Monday, Austin businesses are being told to follow the city's new COVID-19 orders or face a fine of $1,000. However, Gov. Greg Abbott says business owners should not worry about it.

The new rule goes into effect at noon Monday. The city is requiring businesses to put up signs about vaccines and masking. One of the signs encourages masks and vaccines in general. The other sign shows customers the COVID precautions businesses are taking. Businesses that fail to put up the signs could face a hefty fine each day they do not have the signs up.

AISD give substitutes a raise, offers more incentives to work during COVID-19 surge
The state says this order is in violation of state law so the rules don't need to be followed.

Yet, this is not the only challenge business owners are facing. Staffing shortages and supply chain issues are leaving some on the brink of closure.

In east Austin, Longhorn Daquiris is in need of workers.

The daiquiri shop and seafood restaurant owner Andrea Villescaz has a location in Austin and San Marcos. She said they are looking for around 15 people or more to hire from cashiers, cooks, and even a delivery driver. They need the help as several of their employees are currently out sick and quarantined. The lack of workers has the owner and her family working around the clock to fill in the gaps. In hopes of attracting new employees, they've increased the pay from $10 dollars an hour to $13.

They are not the only ones, several other businesses have done the same rising wages as high as $20 an hour.

However, the staffing shortage issue they've been facing for the last four months is not the only challenge. Villescaz says they are also dealing with a rise in food costs.

Central Texas universities begin semester virtually, anticipating COVID-19 surge
"It's already gone up like triple the inflation so it's hard to even still have anywhere near the same profit margin, it's really hard," Villescaz said. "If you raise the price a little bit and then you upset the people and it's like we're stuck in a hard spot."

In December, those at the Texas Restaurant Association conducted a study where they found that nearly 80% of restaurants across the state have reported they do not have enough employees.

"It's a real struggle those food costs and labor costs are up between 80% to 90% for our restaurant operators across the state compared to pre-pandemic numbers," explained Kelsey Erickson Streufert with the association.

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Immigration/Border Security

Texas Border Patrol Agents Find More Than 20 Illegal Immigrants Motel 'Stash Houses'
By Adam Sabes
Fox News

More than 20 illegal immigrants were found in a Texas motel where rooms were being used as "stash houses."

Officials from the U.S. Border Patrol and the Texas Department of Public Safety found more than 20 illegal immigrants in multiple rooms of a Laredo motel on Jan. 13, according to the U.S. Border Patrol Laredo Sector.

Authorities were responding to a report of "suspicious activity" at the motel when the discovery was made.

"During the morning of Jan. 13, #TXDPS troopers and U.S. Border Patrol agents responded to a report of suspicious activity at a local motel in central Laredo. Once on scene, agents and troopers encountered over 20 undocumented individuals in multiple rooms of the motel," a Facebook post from the US Border Patrol Laredo Sector said.

The U.S. Border Patrol Laredo Sector also said that their agents and law enforcement partners "remain vigilant for actions by the criminal elements that attempt to exploit those they seek to smuggle for profit."

Just two days earlier, the U.S. Border Patrol Laredo Sector also announced that agents stopped a narcotics smuggling attempt and seized almost 400 lbs. of marijuana. Border patrol agents were responding to a report of a suspicious vehicle on Jan. 10 in Laredo and found an abandoned SUV after it ran into a traffic sign.

Agents found five bundles of marijuana inside the vehicle, which is estimated to have a street value of $313,040 and weighs 391 lbs.

"Laredo Sector Border Patrol agents continue to secure the Nation’s borders and prevent the smuggling of drugs into the country. Part of their mission is to target and investigate potential violators of the law and stop transnational criminal organizations from their illegally [sic] activities by utilizing state-of-the-art intelligence data, equipment, collection, and analytics to coordinate the seizure of contraband before it can be distributed in our communities," the Facebook post said.

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Health Care

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Minnesota Man Battling COVID-19 Moved To Texas Hospital After Lawsuit Over Ventilator

By Paul Blume
KMSP

A Buffalo, Minnesota man suffering from a devastating case of COVID-19 is in Texas where his family is hoping and praying doctors there can save his life.

Scott Quiner's family went to court last week to get a restraining order to keep Allina Health from pulling the plug on the ventilator that was keeping him alive in Minnesota.

Minnesota man battling COVID-19 moved to Texas hospital after ventilator lawsuit
A man battling COVID-19 has been moved to a Texas facility for new treatment, after his family sued to block a Minnesota hospital from removing him from a ventilator.

FOX 9 does not have all the specifics of Quiner's medical records, but his loved ones and their attorney report the 55-year old father of three was unvaccinated when he was first diagnosed with COVID-19 in late October, around Halloween.

He required deep sedation, a breathing tube, and a ventilator when his oxygen levels got dangerously low and did not improve.

Scott's wife, Anne Quiner claims Allina threatened to pull the plug on that ventilator last week and that is when she went to court to fight.

Anne has power of attorney over Scott's healthcare decisions. She hired lawyer Marjorie Holsten to stop Allina from pulling the plug on the ventilator, a move she believes would have killed him.

"This is a life-saving thing. It is going to be critical," explained Holsten, who admits she has never handled a case like this one.

The Quiners have stated in public comments and social media that Allina would not treat Scott with certain drugs, nor would they attempt other extraordinary measures that might save his life. When the medical team allegedly told the family that Scott had just a couple more days on the ventilator, Holsten rushed to court to obtain the restraining order. The judge signed it Thursday.

"It was mentioned on Monday, confirmed on Tuesday," said Holsten. "By Tuesday, they said, ok, Thursday at noon, we pull the plug. I don't think the judge wanted to be on the wrong side of saying, 'Of course, you should be able to pull the plug' so the judge was correct doing that."

Over the weekend, Scott was transferred on a med flight to an unidentified hospital in Texas, apparently willing to meet the family's medical wishes for life-saving treatments.

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By Sunday evening, he was already said to be improving on the ventilator while being weaned from the heavy sedatives, and provided extra nutrients.

His family claims that it appears most of his major organs are functioning well, except his lungs.

"I think the world is watching what is going on with Scott," Holsten told FOX 9's Paul Blume. "And as he gets better and better, we are going to see that you know what, there are protocols that should be used that hospitals have not been using. And I am hoping that changes are going to be made as a result of this case."

Allina would not discuss specifics of Quiner's medical condition and case history, but provided FOX 9 with a brief written statement that read in part: "Allina Health is grateful the family was able to find a health care facility that meets their needs and we continue to wish them all the best."

Meantime, the Quiners have raised tens of thousands of dollars for Scott's emergency, life-saving care through a pair of online fundraisers in recent days, boosted by significant online coverage of his case.

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Opinion/Editorial

Analysis: The Never-Ending Fight Over Voting In The U.S.
By Ross Ramsey
Texas Tribune

On the national holiday celebrating Martin Luther King Jr., more than 53 years after his assassination in 1968, voting rights remain in the center ring of American politics.

With the party primary season already underway, Texas is busy in court, defending restrictive new voting laws and challenges to new political maps for its congressional delegation, the state Legislature and the State Board of Education that were drawn after the 2020 census.

The state's eligible voters have two more weeks to register in time to vote in those primaries. Early voting begins in four weeks. The March 1 primary elections are in six weeks.

But the rules of engagement are still being debated in the courts, in Congress and in the campaigns themselves.

The state of Texas was sued over its new political maps before the governor had signed them — a signal that the never-ending cycle of litigation over redistricting is alive and well. That early suit wasn't unexpected in a state that has been caught violating

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protections for voters of color in every decade since the Voting Rights Act took effect in 1965. A second lawsuit challenging the maps landed right after Gov. Greg Abbott signed the legislation, and the U.S. Department of Justice later joined the dogpile.

That litigation will likely last for years. In the short term, an adverse court ruling could force the state to delay its primary elections while the maps are revised or replaced. That's what happened before the 2012 elections that followed redistricting.

This year's candidates have already filed for office; drawing new maps and delaying the primary could reopen the filing to new people.

The restrictions on voting approved by legislators and the governor during last year's special sessions have also gone to court. Those are statewide changes, spurred by pandemic-inspired voting practices in 2020 in the state's biggest county, like drive-thru voting, 24-hour voting and sending mail-in ballot applications to all registered voters, whether they requested them or not.

That legislation prompted Democrats in the Texas House to walk out at the end of the regular session to prevent a vote, and later, to leave the state for Washington, D.C., to block consideration in special sessions.

One reason they chose Washington was to lobby members of Congress to pass voting legislation that would override legislation like what was then being considered in Texas.

Congress didn't get to it until late last year, after the Texas legislation had passed — and after opponents filed federal lawsuits to stop it.

That has turned into the imbroglio of the month, as the White House and the U.S. Senate have locked horns over Democrats' proposed overhaul of the country's electoral system.

Politico pulled together a lengthy list of ideas now included in the federal bill, which has grown to more than 700 pages.

It would require same-day voter registration and automatic registration when people get their driver's licenses, expanding vote-by-mail options to all voters, adding to the list of documents that can be used for voter ID, and barring restrictions on food and water for people waiting in line to vote.

It would make Election Day a federal holiday and reinstate "preclearance" laws that require states with histories of discrimination — like Texas — to get federal permission before putting new voting and election laws in place.

It would ban partisan gerrymandering, the practice of drawing political maps to unfairly favor one political party and hobble another.

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It would make it more difficult to interfere with or harass the people who count votes, keep most voting machinery disconnected from the internet and require paper ballots in most systems.

It even gets into campaign finance, attempting to force disclosure from organizations that currently don't have to disclose their sources of funds — so-called dark money operations.

That bill is in trouble, with Senate Republicans holding firm against it and a couple of Democrats whose votes are critical saying they will not support it. The Texas Democratic legislators who decamped to Washington to lobby for it may be in for another disappointment.

In the meantime, the state's new voting and election laws remain in effect and, like the political maps, in the hands of federal judges who will decide whether state and federal lawmakers are fortifying or dismantling Americans' and Texans' right to vote.

It was a fight 50 years ago, and it still is.

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Ron DeSantis Welcomes You to Florida, America's New Texas
By David Reaboi
Newsweek

For conservatives all over the world, Texas has long been something of a promised land, boasting decades of government policy hospitable to freedom and the kind of straight-talking, kind people who'd greet you warmly even on a busy street. It's a place well-known for a rugged toughness, an embrace of tradition and a fearless independent streak.

Considering also the romantic notions that have attached to that state since films began to romanticize the Wild West over the last century, it's remarkable that Texas' once-nonpareil position in the conservative imagination has been displaced so quickly—and by a place that was long thought of as a blue-leaning swing state.

By last week, when Governor Ron DeSantis gave his State of the State Address in Tallahassee, Florida had already eclipsed Texas as the most energetic, forward-looking red state in America, having captured the imagination of hundreds of thousands of conservatives who have flocked here—and millions in other states and countries who are watching, often jealously, from afar. (Even from Texas.)

DeSantis' insistence on protecting normal life in Florida through the COVID insanity of the last two years has distinguished him in American politics. Through his own stubborn resistance to what he has called "blind adherence to Faucian declarations," he has made Florida a true beacon of sanity. By now, every Floridian knows how this happened, and most will never forget it.

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In March 2020, the nation was in the grip of COVID hysteria, and America was locked down. In every state, stores, offices and factories closed as workers and business owners struggled to prove to nameless mandarins that their very livelihoods qualify as "essential." President Donald Trump, while skeptical of Anthony Fauci's edicts, nevertheless cowed to the pressure of the media and allowed his chief medical advisor to promote draconian lockdown policies.

Absurdly, gyms and even public beaches and parks boarded up. Violators of local COVID-inspired rules and closures were slapped with massive fines. As crime initially dropped during the lockdowns, municipalities repurposed their police forces as lockdown enforcers—levying massive fines on businesses that dared to open or allow customers to enter without masks.

Conservatives were shocked that, even in the liberty-minded Lone Star State, people's lives were being crushed by power-mad politicians. In Dallas, Shelley Luther was issued a large fine and was then jailed merely for keeping her hair salon open. Fearing the backlash from a lockdown-obsessed national and local media, Texas Governor Greg Abbott vacillated, failing to decisively bring the state back to normal.

As every conservative knows, things unfolded differently in Florida. By mid-June 2020, Governor DeSantis had had enough—both of lockdowns and the local municipalities that were raising millions in punitive fines for violating the lockdowns and mandates, especially in blue-leaning parts of South Florida.

DeSantis couldn't order those municipalities to relax their COVID restrictions, but he could make it impossible for the offending towns to profit from them. The governor's Executive Order 21-133 gave amnesty to thousands of businesses and individuals that had been swamped with millions in debilitating local fines.

Immediately, even the last cities that were holdouts to draconian COVID restrictions began to relax. Restaurant owners could begin to operate without the local police looking over their shoulders; gyms could be free of law enforcement spot-checking mask compliance. Florida, suddenly, was open for business again.

"In Florida," the governor said last week, "we have protected the right of our citizens to earn a living, provided our businesses with the ability to prosper, fought back against unconstitutional federal mandates and ensured our kids have the opportunity to thrive." By design, his state has "become the escape hatch for those chafing under authoritarian, arbitrary and seemingly never-ending mandates and restrictions."

Watching DeSantis' example in Florida—and in the absence of leadership in the White House—voters in Texas and other red states slowly began to demand similar measures. It's not an exaggeration to postulate that, had DeSantis not been as decisive and fearless in his own early-stage COVID actions in Florida, governors and other officeholders in

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even the most conservative states would not have had the courage to open and return to normal for many more months.

Of course, the governor's leadership on COVID has defined his first term in office, but that alone doesn't account for his near-universal popularity with Republican voters. Several clips from DeSantis' speech last week spread far and wide on social media. Thanks to his competence and resistance to intense pressure from Democrats and the corporate media across a whole host of issues, the governor has become America's de facto conservative leader. Accordingly, his State of the State Address last week was greeted—especially on Twitter—like a national event.

Troublingly for Trump loyalists in Mar-a-Lago, the enthusiasm with which Republicans across the country greet a new statement or memorable, combative press conference from DeSantis indicates that the governor has filled the void in what was previously seen as the party of Donald Trump.

DeSantis has taken the reins with creative, aggressive policy solutions to many of the issues left unaddressed over the four years of the Trump administration. The governor's tangible solutions to hot-button issues such as critical race theory indoctrination, election integrity, Big Tech censorship, protecting the unborn and immigration—all elaborated in his State of the State Address—stand in stark contrast to the former president's notable inability to do more than simply talk about them.

In a way, DeSantis' recent speech brought back memories of early 2009, when, also left without a national Republican figure in office, conservatives thrilled to the late Rush Limbaugh's speech at that year's Conservative Political Action Conference. That speech didn't catapult Limbaugh to national political office, but it did signal that what Rush called the "titular head of the Republican Party" was up for grabs.

What the political future looks like for Florida's governor is hard to tell. DeSantis isn't running for president—as far as we know. And Trump hasn't specifically announced his intentions. But in the last two years, the governor has captured the imagination and support of many millions, both inside and outside Florida.

Even as many blue state conservatives (and especially Californians) decamp to Texas, with both Trump and DeSantis in Florida, there can be no denying the gravitational pull the Sunshine State now has for the American Right. There is a sense here that this place is the future, especially as GOP voter registration has now overtaken Democratic voter registration for the first time in the state's history. Most Florida Republicans have no doubt who to thank for that.

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# # #

Administration News

Paxton Sues Biden In Attempt To Revive Border Wall Construction
By Jasper Scherer
Houston Chronicle

Texas Attorney General Ken Paxton on Thursday sued the Biden administration for halting construction of the southern border wall, arguing that Department of Homeland Security officials must spend funds approved by Congress for the barrier under the Trump administration.

In a lawsuit filed in the U.S. District Court for the Southern District of Texas, Paxton joined with Missouri Attorney General Eric Schmitt — a fellow Republican — to contend that President Joe Biden ran afoul of the law when he issued an executive order pausing all wall construction on his first day in office.

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The argument mirrors one from Senate Republicans who earlier this year requested that a nonpartisan watchdog agency review whether Biden's order had infringed upon Congress' "constitutional power of the purse." The Government Accountability Office found that Biden was authorized to delay the wall funding, though Paxton's lawsuit notes the agency also recommended that the White House submit a timeline for spending the funds.

"The President and his agencies may not unilaterally override duly enacted appropriations bills to fulfill a campaign promise," the lawsuit reads.

Paxton and Schmitt argue that Biden is violating the constitutional doctrine known as the separation of powers, which generally divides the federal government into three separate branches. They also contend that Biden violated a 1974 law that established restraints on when the president and other officials could withhold funds approved by Congress.

Biden, who vowed throughout his presidential campaign to stop building the wall, said upon signing his executive order that "a massive wall that spans the entire southern border is not a serious policy solution." In June, he diverted $2.2 billion in wall funding to the Department of Defense for military construction projects.

Texas Republicans, including Paxton and Gov. Greg Abbott, have been some of the loudest critics of Biden's border policies, blaming the White House for a surge in migrant encounters along the southern border.

Last month, the Legislature approved roughly $1 billion for Abbott's plan to continue building the wall, part of a $1.8 billion spending package that also funds a surge in state troopers to the border.

On HoustonChronicle.com: Texas lawmakers approve $1.8B for border security requested by Abbott

The federal government built about 450 miles of new barriers during the Trump administration, mostly in Arizona.

Land Commissioner George P. Bush, a Republican who is trying to unseat Paxton in the 2022 primary, filed a similar lawsuit in July — one that was also based on the argument that Congress had already approved wall funding.

On Thursday, Bush senior adviser J.R. Hernandez responded to Paxton on Twitter, criticizing the attorney general for filing "the exact (same) lawsuit" as Bush.

"They say immitation (sic) is the most sincere form of flattery but maybe if you weren't so plagued with scandal you'd be more focused on the #bidenbordercrisis," Hernandez wrote.

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Patterson, Who Led Alamo Transition, Appointed To State's 1836 Project Advisory Panel
By Scott Huddleston
San Antonio Express News

Jerry Patterson, who oversaw a 2011 transition at the Alamo as state land commissioner when the General Land Office replaced the Daughters of the Republic of Texas as the site's custodian, is one of three people appointed by Lt. Gov. Dan Patrick to serve on the nine-member 1836 Project Advisory Committee.

The project, named for the year Texas won independence from Mexico before becoming a U.S. state 10 years later, is touted in a news release from Patrick's office as an effort "to promote patriotic education and increase awareness of the Texas values that continue to stimulate boundless prosperity across this state." Some critics have said they're worried the committee, in its zeal, will omit controversial aspects of the state's history, including racial unrest and social and economic disparities.

Also appointed by Patrick were Sherry Sylvester of San Antonio, former senior adviser to Patrick and a Distinguished Senior Fellow at the Texas Public Policy Foundation, with a focus on Texas history and identity; and State Sen. Brandon Creighton, R-Conroe, an eighth-generation Texan.

The release noted that Patterson, of Austin, served as land commissioner and state senator, is a U.S. Marines veteran and was named 2007 Texan of the year by Celebrate Texas, a nonprofit group that promotes Texas independence events.

"The 1836 Project will play a key role in ensuring that future generations learn the truth about Texas history, and about the core values that have contributed to making Texas the greatest state in the country," Patrick said in a release.

Gov. Greg Abbott announced his three appointments to the panel last month: author-educator Carolina Castillo Crimm of Huntsville, retired as history professor emeritus at Sam Houston State University; history scholar Don Frazier of Kerrville, director of The Texas Center at Schreiner University and former professor at McMurry University in Abilene; and Kevin Roberts of Liberty Hill, CEO of the Texas Public Policy Foundation.

The other three appointments, by House Speaker Dade Phelan, have not been announced.

Under House Bill 2497, which Abbott signed in June, the committee primarily is tasked with producing a pamphlet on the state's history for Texans receiving driver's licenses. It also will create a gubernatorial award to celebrate student knowledge of the state's history, and advise state agencies on how they relay historical facts in museums, landmarks, state parks and other areas.

But Patterson said the group's work will be focused on the pamphlet. Even though Patrick has taken a lead roll in securing state funding for an extensive public-private makeover of the Alamo that includes construction of a museum, Patterson said he doesn't foresee the panel's work having a direct impact on the Alamo project, whose key partners include the city of San Antonio and nonprofit Alamo Trust.

"The Alamo is part of our history and I can't see how anything we do will affect the Alamo in any significant way. The biggest problem we have is covering the wide expanse and lengthy narrative of Texas in a single pamphlet," Patterson said.

In the final years of his tenure as land commissioner from 2003 to January 2015, Patterson oversaw change at the Alamo, but retained the DRT as the site's operations contractor. He helped negotiate an Alamo exhibit of the state-owned "victory or death" letter signed by William Barret Travis; opened the first-ever Alamo exhibit devoted extensively to Tejano defenders and survivors of the 1836 battle; and helped negotiate the donation of artifacts to the Alamo by musician Phil Collins.

Patterson also promoted the concept of reclaiming as much of the Alamo's historic footprint as possible, and putting it under management of a "single authority."

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Texas Attorney General Ken Paxton Sues Biden Administration In Bid To Force Construction Of U.S.-Mexico Border Wall
By Uriel J. Garcia
Texas Tribune

Texas Attorney General Ken Paxton and his counterpart from Missouri filed a lawsuit on Thursday against the Biden administration, claiming it broke the law by halting border wall construction along the U.S.-Mexico border.

"The Biden administration's flat refusal to use funds that have already been set aside by Congress to build the border wall is not only illegal and unconstitutional," Paxton said, "It's also wrong, and it leaves states like Texas and Missouri footing the bill."

On Inauguration Day, Biden ordered a pause on all border wall construction and an assessment of federal government contracts already awarded for the project, calling former President Donald Trump's signature promise a "waste of money" and saying that it was "not a serious policy solution."

The lawsuit, filed against Biden and Department of Homeland Security Secretary Alejandro Mayorkas in the U.S. district court in Victoria, argues that Congress had set aside $1.375 billion to construct barriers along the southwest border and that the Biden administration doesn't have the constitutional authority to refuse to spend money that Congress authorized for border wall construction.

Trump's administration erected about 80 miles of new barrier before he left office, including 21 miles along the Texas-Mexico border.

The Department of Homeland Security didn't immediately respond to an emailed request for comment.

This lawsuit is the second filed by Paxton and Missouri Attorney General Eric Schmitt against the Biden administration.

Earlier this year, Paxton and Schmitt sued the Biden administration, claiming it had violated administrative law by ending the Migrant Protection Protocols, a Trump-era program unofficially called "remain in Mexico," which forces asylum-seeking migrants to stay in Mexico as their legal cases are pending. The lawsuit argued that human trafficking would increase if MPP was rescinded and that it would cause the two states financial harm.

District Judge Matthew J. Kacsmaryk agreed with Paxton and Schmitt; the Biden administration has said it will obey the judge's order and restart the policy next month.

Mexico's government had previously agreed to receive the migrants under the Trump administration, but it hasn't said if it will do the same for the Biden administration.

"We need to finish President Trump's wall," Schmitt said on Thursday during an El Paso news conference announcing the new lawsuit.

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State News

Republicans Slam Rodney Ellis' Proposal To Redistrict Harris County, Claim It Will Create 'Chaos'
By Zach Despart

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Houston Chronicle

The two Republican Harris County commissioners say a proposal by Democrats to redraw commissioner precinct boundaries will cut services and dilute the influence to of conservative residents.

The proposed map by Precinct 1 Commissioner Rodney Ellis would significantly alter the shapes of precincts 3 and 4, the two represented by Republicans. Precinct 4 would arch along the county's northern edge from Katy to Baytown, while Precinct 3 would be entirely west of Loop 610.

New Harris County commissioner precinct boundaries proposed by Precinct 1 Commissioner Rodney Ellis would likely benefit Democrats.
New Harris County commissioner precinct boundaries proposed by Precinct 1 Commissioner Rodney Ellis would likely benefit Democrats.

Precinct 3 Commissioner Tom Ramsey called Ellis's map "the most corrupt plan I have ever seen my 45 years in doing work in Harris County."

"The objective is control," Ramsey said Thursday on the Michael Berry Show on radio. "The objective is to create the most chaos as possible, because (the Democrats) cannot stand the fact that 3 and 4 function very well. … It drives them crazy, so they want to blow it up."

Ramsey said he is particularly concerned that Precinct 4 would by far have the largest share of residents living in unincorporated areas, who rely on the county for services like parks and community centers. Ramsey predicted a strain on that precinct would lead to cutbacks.

Precinct 4 Commissioner Jack Cagle said the Ellis map, if approved, could allow Democrats to finally capture a fourth seat on Commissioners Court, which would allow them to set tax rates without any input from Republicans. In an email to constituents, Cagle predicted that would lead to future tax increases.

Cagle has proposed a map of his own. It largely keeps the current shapes of the precincts intact, while ceding parts of precincts 3 and 4 to precincts 1 and 2.

Commissioners Court redraws the four precinct boundaries after every decennial census. The process is needed to ensure each precinct has roughly the same population; precincts 3 and 4 grew much faster over the past decade, and, therefore, would lose some constituents.

Much as Republicans have done with Texas Legislature and U.S. House districts during the last two decades, the Democrats who control Harris County also can shift boundaries for their political advantage.

The highest political priority for county Democrats is to protect Precinct 2, which Adrian Garcia won by less than 1 percent in 2018. The Ellis proposal would transfer a corridor of Republican-leaning communities in northeast Harris County, including Huffman and Crosby, from Precinct 2 to Precinct 4. Garcia's precinct also would gain parts of heavily Democratic Precinct 1, including East Houston and a portion of Acres Homes.

Those changes, if approved, likely would help make Garcia's re-election bid next year much easier.

More than 100 residents testified at a public hearing Thursday on the redistricting proposals, mostly in opposition to the Ellis plan. Several said they oppose a precinct that stretches more than 50 miles from the west to east sides of the county.

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“Harris County residents will be in grave danger in a hurricane as response teams will have to travel the distance from Katy to Baytown,” said Precinct 3 resident Michelle Heinz.

Chris Daniel, a former Republican county district clerk, said it is more important for commissioner precincts to have sensible shapes than legislative districts because they also contain parks, community centers and trails. He cautioned against making significant changes to the current boundaries.

“These are lines that are very difficult to move because of infrastructure that’s in place,” Daniel said.

Precinct 3 resident Adrian Ozuna said he supported Ellis’s proposal because it keeps minority communities like Sharpstown in a single precinct, a key goal of the Voting Rights Act. Abel Garza praised the Ellis plan because it places Aldine entirely in Precinct 1 instead of dividing the mostly Latino community into three precincts.

“There was a point in time where nobody wanted Aldine,” Garza said. “We welcome any map where we can work with one commissioner instead of three. That way we know who to contact or, more importantly, who to yell at when things aren’t getting done.”

Some residents are tired of the politicking involved in drawing districts. Marc Anderson submitted a proposal calling for the county to be divided neatly into four quadrants, with Houston in the middle, and call it a day.

“Stop trying to carve it up in some weird way,” he wrote in his proposal. “This should give each precinct a good mix of different communities and different demographics and would be fairly middle of the road politically.”

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Poor Texans Wait In Limbo As Dems Squabble In D.C.
By Robert Downen
Houston Chronicle

It was once a unifying policy for Democrats.

But now, child tax credits are at the center of an increasingly bitter budget fight on Capitol Hill, a battle that will have profound implications for the millions of poor families in Harris County and Texas.

At issue are child tax credits that were expanded in March as part of the latest federal COVID-19 stimulus package.

The legislation upped the per-child credits from $2,000 to $3,600 per child under age 6 and from $2,000 to $3,000 for children older than 6.

The expansion also allowed families to receive some of the money in direct, monthly installments.

And, per Columbia University researchers, it also helped raise millions of children out of poverty just as the delta variant began to overwhelm hospitals, shutter businesses and, yet again, push millions of Americans into unemployment seemingly overnight.

About 1 in 6 American children live in poverty — one of the highest rates among all developed nations — and so it makes sense the widespread use and popularity of the child tax credit expansion.

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In the four months since the program was opened, more than $61 billion has been allocated to American families in need, according to a report released last week by the U.S. Department of Treasury and Internal Revenue Service.

Texans have received about one-tenth of that money, with about $6.2 billion paid through roughly 3,600 credits — an average of roughly $444 per month, per child, according to the report.

Now, with the extension set to sunset at year's end, child tax credits are among a handful of policies that have left Congressional Democrats at an impasse as they try to pass an ambitious, budget bill of around $2 trillion that would, among things, extend the credits through 2025.

The budget proposal, once pegged at $3.5 trillion, is being scaled back to win over two moderate Democrats — West Virginia Sen. Joe Manchin and Arizona Sen. Krysten Sinema. With united Republican opposition, Democratic leaders need support from both to pass the bill in the evenly divided Senate.

President Joe Biden is reportedly considering extending the child tax credit expansion for just one year as a compromise to satisfy moderates. Manchin has proposed means-testing the program, which would shrink the number of eligible children by an estimated 37 million. Regardless of how the standoff shakes out, it will have real consequences for millions of low-income people in Texas and Harris County, where roughly 1 in 5 children live in poverty.

"That is hundreds of thousands of children in Harris County, one of the most prosperous counties in the most prosperous country in the world," County Judge Lina Hidalgo said this week.

Texas was one of two dozen states that opted to end other COVID relief programs before they were set to expire in September. The move was favored by Republicans and some businesses who argued that the programs were keeping people out of the workforce — claims that have been questioned by economists and poverty researchers.

No wonder, then, that Harris County leaders have gone on the offensive while they can.

Last week, county commissioners approved $500,000 to fund outreach efforts to low-income families who may qualify for the child tax credits, but have been unable to navigate an application process that some have decried as confusing and arbitrary.

Hidalgo said the outreach efforts are part of a broader "paradigm shift" in poverty prevention.

Parents seeking the credits still have until Nov. 15 to apply for the program.

What happens after that? All bets are off — and all eyes are on two senators who can turn into reality what was once a Democratic Party pipedream.

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Texas Voters Will Decide Eight State Constitutional Amendments On Nov. 2. How Would They Impact You?
By Sami Sparber
Dallas Morning News

With early voting for the Nov. 2 election underway, Texas voters are deciding whether to approve eight changes to the state constitution, including two that stem from issues that arose from the state's response COVID-19.

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A majority of voters must support each of the proposed amendments, which were greenlit by the Legislature earlier this year, to put the changes on the books. Early voting runs through Oct 29.

Here's what you need to know about how the proposed constitutional amendments could impact Texans and their communities.

Pandemic response

Two of the proposed amendments respond to government restrictions that were imposed during the COVID-19 pandemic. Officials across the political spectrum have come under fire for their handling of the ongoing health crisis, whether it be over shutdowns or mask mandates.

Proposition 3 would prohibit any governmental entity from enacting any rule prohibiting or limiting religious services.

The proposed change, hailed by supporters as protecting religious freedom, comes after some places of worship were limited during pandemic lockdowns.

What you'll see on the ballot: "The constitutional amendment to prohibit this state or a political subdivision of this state from prohibiting or limiting religious services of religious organizations."

Proposition 6 would allow residents in nursing homes and similar long-term care facilities to designate an essential caregiver who could not be denied in-person visitation.

The proposed amendment responds to facility closures earlier in the pandemic, when residents were isolated from loved ones for months.

What you'll see on the ballot: "The constitutional amendment establishing a right for residents of certain facilities to designate an essential caregiver for in-person visitation."

Elections for judges

Proposition 4 would require judicial candidates to be Texas residents with a license to practice law in Texas, to be a practicing lawyer or judge for at least eight to 10 years before election and not have had their law license revoked or suspended during that time.

Supporters say the proposal is meant to ensure a higher quality judiciary. Critics worry the stricter requirements could exclude younger, more diverse lawyers from judicial appointments or races.

What you'll see on the ballot: "The constitutional amendment changing the eligibility requirements for a justice of the supreme court, a judge of the court of criminal appeals, a justice of a court of appeals, and a district judge."

Proposition 5 would allow the State Commission on Judicial Conduct to take complaints, conduct investigations and take other action against a candidate running for state judicial offices. The commission currently only handles officeholders, not candidates.

The lawmakers behind the proposed amendment said it seeks to "ensure that judicial elections are fair" by holding candidates and sitting judges to the same standards.

What you'll see on the ballot: "The constitutional amendment providing additional powers to the State Commission on Judicial Conduct with respect to candidates for judicial office."

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County infrastructure
Proposition 2 would authorize counties to issue bonds to fund transportation and infrastructure projects in neglected or underdeveloped areas. Cities can already issue these bonds, but not counties.

The amendment would allow counties to use increases in property tax revenue in the area to repay the bonds. Critics, such as the state Republican Party, argue the proposal would create more local debt.

What you'll see on the ballot: "The constitutional amendment authorizing a county to finance the development or redevelopment of transportation or infrastructure in unproductive, underdeveloped, or blighted areas in the county."

Other proposed amendments
Proposition 1 would allow the Professional Rodeo Cowboys Association and the Women's Professional Rodeo Association to hold charity raffles at rodeo events, much like Texas' professional sports teams do at their home games.

What you'll see on the ballot: "The constitutional amendment authorizing the professional sports team charitable foundations of organizations sanctioned by the Professional Rodeo Cowboys Association or the Women's Professional Rodeo Association to conduct charitable raffles at rodeo venues."

Proposition 7 would allow a surviving spouse of a person who is disabled and receiving homestead exemptions on school district property taxes to continue to take advantage of the exemption, as long as the surviving spouse is 55 or older.

What you'll see on the ballot: "The constitutional amendment to allow the surviving spouse of a person who is disabled to receive a limitation on the school district ad valorem taxes on the spouse's residence homestead if the spouse is 55 years of age or older at the time of the person's death."

Proposition 8 would extend tax exemptions to a surviving spouse of a member of the military who dies because of any injuries sustained during their service, whether it is related to combat or not.

What you'll see on the ballot: "The constitutional amendment authorizing the legislature to provide for an exemption from ad valorem taxation of all or part of the market value of the residence homestead of the surviving spouse of a member of the armed services of the United States who is killed or fatally injured in the line of duty."

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Education

Allen ISD Parents Refile Mask Mandate Lawsuit, Adding McKinney ISD, TEA As Defendants
By Francesca D'Annunzio
Dallas Morning News

An attorney representing parents in Allen ISD refiled a federal civil rights lawsuit today over their school district's lack of a mask mandate, adding the parents as plaintiffs to a lawsuit originally filed late last month against Frisco ISD, Lago Vista ISD, Hurst-Euless-Bedford ISD and Grapevine-Colleyville ISD.

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The amended complaint — filed in U.S. district court in the Western District of Texas instead of the Eastern District, as it was at first, adds three defendants: the Texas Education Agency, McKinney ISD and Tomball ISD, in the Houston suburbs.

The lawsuit seeks a temporary restraining order and permanent injunction that, if successful, would require the Texas Education Agency to adhere to Centers for Disease Control and Prevention guidelines for all the districts named in the case — including universal masking.

The change of venue means that instead of receiving a ruling in the Eastern District from U.S. District Judge Sean Jordan, who was initially assigned to the case, the lawsuit will be heard by U.S. District Judge Robert Pitman.

Jordan was nominated by a Republican, former President Donald Trump, and Pitman was nominated by former President Barack Obama, a Democrat.

Allen ISD said in a prepared statement late Thursday that the plaintiffs' attorney, Martin Cirkiel, is "forum shopping" — or choosing to file in a court that will treat the lawsuit's claims more favorably.

"Once again, this process will cost Allen ISD considerable man hours and legal fees to defend itself in court," the statement read.

The district also said it would continue to follow its COVID-19 safety procedures "that have resulted in low active case rates," of 0.16% of the student population.

Cirkiel, McKinney ISD and the Texas Education Agency did not immediately respond to requests for comment.

Previous lawsuit
Allen ISD parents dropped their original civil rights lawsuit two weeks ago, after Jordan denied their request for a temporary restraining order against the school district. He had not yet ruled on a permanent injunction.

Officials said the district has already spent tens of thousands of dollars defending the suit.

"To hear the AISD lawyers argue they don't have a legal duty to protect our kids from other kids really shocked and hurt me," Therissa Grefsrud, a district parent named in the lawsuit, said after the first hearing in early October.

"And then to see them essentially light a cigar and claim victory … there aren't winners in this COVID-19 pandemic."

Allen ISD said in a prepared statement after the denial that it was an "important victory" and that its strong case in court likely influenced the parents to drop the case, but their attorney denied that.

"This decision was not made because we feel AISD is providing reasonable COVID safeguards based on medical guidance. This decision was not made because we feel AISD has a strong legal case," their attorney's office said in a prepared statement at the time.

The federal class-action lawsuit filed on behalf of more than 1,000 parents in early September alleged that the Allen school district's refusal to require masks violated students' constitutional rights to life, liberty and the pursuit of happiness.

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TX-SOS-22-0155-B-000121

Other COVID-19 protocol lawsuits filed in Texas and other states are alleging discrimination against disabled students. But the legal complaints filed against North Texas districts allege a violation of the constitutional rights of all students, according to a statement from the plaintiffs' law firm.

Allen ISD and many other parents in the district dispute the lawsuit's claim that not requiring masks — which public-health experts say can slow the virus' spread — is a violation of constitutional rights.

"The District, however, strongly disagrees that the students' constitutional rights have been violated by leaving masks as an option for students and staff," spokesman David Hicks said in a prepared statement to The Dallas Morning News last month.

Allen parents previously told The News that they felt legal action was the last recourse they had to keep their children safe. In the weeks leading up to the lawsuit's filing, parents protested outside school board meetings, sent Allen ISD a grievance letter with hundreds of signatures and pleaded with the district to change its policy.

Parents said the litigation wasn't about the money, but about health and safety — especially for kids too young to be vaccinated.

"I want my kids to be in a safe learning environment," Grefsrud, a registered nurse specializing in infection prevention and epidemiology, said last month. "And I think that all of our kids in this community deserve a safe learning environment."

COVID-19 cases among children
New admissions for coronavirus patients are declining in the four most populous North Texas counties, according to UT Southwestern Medical Center, and city data show that Allen's active cases of the virus have decreased for six consecutive weeks.

But a disproportionate number of severe cases are occurring among children.

During the most recent COVID-19 surge over the summer, pediatric COVID-19 hospitalizations were seen at unprecedented levels, peaking in early September. Providers said they saw an uptick in kids testing positive for the disease in August and September compared with prior months.

As of Oct. 21, Allen ISD has at least 40 active cases of COVID-19, according to the district's dashboard. Half of the cases are in elementary school students, data show.

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With Texans Falling Short Of College Degree Goals, State Prioritizes Credentials, Earnings
By Megan Menchaca
Austin American Statesman

Texas is the first state to set higher education goals connected directly with the earnings related to postsecondary credentials in new guidelines set by the Texas Higher Education Coordinating Board.

The board, which oversees all higher education in the state, unanimously approved changes to its so-called 60x30 plan that would increase its focus on adult learners, prioritize "credentials of value" and give college students equitable access to information and resources.

The primary goal of the initial 60x30 plan was for at least 60 percent of Texans ages 25-34 obtain a certificate or degree by 2030. The plan, adopted in 2015, also aimed to have college graduates complete programs with

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marketable skills and to keep undergraduate student loan debt from exceeding 60 percent of first-year wages by 2030.
The board updated the primary goal to track “credentials of value” obtained by young Texans in addition to certificate or degrees during its quarterly meeting on Thursday. It also will be monitoring the percent of Texans ages 35-64 who obtain certificates, degrees or credentials of value by 2030 and collect more data on the finances associated with those credentials, such as median earnings and net cost of attendance.

Melissa Henderson, the board’s associate commissioner for strategic partnerships, said credentials of value can include degrees and certificates along with badges, apprenticeships and industry certifications. Along with the typical degrees and certificates, she said these credentials help students establish a path into the workforce.

“We've already laid a strong foundation for the Texas workforce over the past two decades by increasing postsecondary attainment,” Henderson said. “However, the modern economy demands more that we award credentials that offer purpose in the economy, value in the labor market and opportunity for a good job and meaningful career.”

The change comes as Harrison Keller, the Texas commissioner of higher education, acknowledges that the board was not on track to meet its primary 60x30 goal in the next nine years. About 44.5% of Texans aged between 25 to 34 obtained a certificate or degree in 2019, and the state is currently forecast to grow that number to approximately 54.5% by 2030, according to data presented at the meeting.

“We're going to have to double down on our engagement and enrollment as students,” Keller said. “We're particularly going to have to work with our institutions on having more flexible short-term credentials that are valuable for individuals and aligned with current emergent workforce needs.”

As part of an effort to make information more accessible, the board plans to publish data in the future about the career trajectories and earnings associated with different types of credentials. The board is also working with the Texas Workforce Commission to create a state credential database with a list of available credentials, Keller said.

“A lot of folks told us .. was that while cost was a barrier (in pursuing credentials), on the same magnitude were issues related to advising,” Keller said. “Folks might know that they might need some additional training, some additional education to advance in their careers, but they weren't sure what kind of education they should pursue or how that might lead to a better job.”

The board approved plans to track the percentage of graduates with “no or low student debt” related to their potential earnings based on the credentials they earn. Nearly 40 of Texas college students had student debt during the 2019-20 academic year, according to a report on student financial aid in Texas higher education.

Keller said two students who graduate from college might have the same amount of debt, but they could have different projected earnings based on the degree they graduate with. He said if the state doesn’t maintain or improve its commitment to need-based financial aid, more students could have high and unsustainable levels of debt when they complete their credentials.

“Included in that notion of (measuring) high debt or no debt also is an emphasis on the shared responsibility among the students and their families, the institutions and also the state of Texas, and ensuring that these higher education credentials are going to be accessible and affordable,” Keller said.

Henderson said the COVID-19 pandemic had demonstrated how quickly specific jobs and marketable skills can change, and so college credentials must propel graduates into careers that equip them for their future while also providing greater economic mobility and low student debt.

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"Manageable student debt is essential to expand economic mobility for historically underserved populations who have often had the greatest means that the least access to higher education and support services," Henderson said. "This combination of increased value and economic mobility for students also translates into greater economic prosperity."

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ACLU Of Texas Sues Houston-Area School District Over Gender-Based Dress Code's Long-Hair Policy
By Allyson Waller
Texas Tribune

The American Civil Liberties Union of Texas is suing a Houston-area school district over a dress code policy it says has led to multiple students being disciplined for having long hair.

Plaintiffs in the lawsuit include six boys and a nonbinary student ages 7-17 from Magnolia Independent School District. According to the lawsuit, which was filed in federal district court Thursday morning, the Magnolia ISD gender-based policy "imposed immense and irreparable harm" on the students, some of whom claim they have worn long hair for years while attending school in the district without any repercussions.

The lawsuit says the students have been threatened with or sent to in-school suspension for weeks at a time; some were placed in a "disciplinary alternative education program," leading three of them to unenroll from the school district. The suit also states that while the plaintiffs have been disciplined for the length of their hair, other students with long hair, such as those on high school football teams, have not faced discipline.

"To be kicked out, pushed out, of school entirely simply because of their gender and their hair is really unconscionable," ACLU of Texas staff attorney Brian Klosterboer said.

Klosterboer said the ACLU warned Magnolia ISD numerous times about how its dress code policy's gender-specific requirements violate equal protection under the 14th Amendment and Title IX, which prohibits discrimination in education institutions on the basis of sex.

In a statement, Magnolia ISD disagreed with the ACLU's claims and said it was reviewing "the lawsuit with its legal counsel and looks forward to the opportunity to respond to the Court."

"This system of differentiated dress and grooming standards have been affirmed by courts and does not inhibit equal access to educational opportunities under Title IX," the district said. "The rules are included in the student handbook each year and are similar to the codes of approximately half of the public school districts in Texas."

In a letter sent to the district in August, the ACLU of Texas said it filed a grievance in 2019 on behalf of a Magnolia ISD parent who said her son was told to cut his hair or he'd be sent to in-school suspension. The letter also cited reports the ACLU of Texas received about students repeatedly being threatened with disciplinary action or being suspended for having long hair.

Danielle Miller, whose 11-year-old child is nonbinary and a plaintiff in the lawsuit against the district, said she received a phone call from her child's school at the beginning of this school year and was told that her child would have to cut their hair. The Texas Tribune does not disclose children's names for privacy reasons.

Miller said her child was "just in absolute devastation and tears" when she told them they would have to cut their hair.

"... Based on [my child's] reaction and how harsh and traumatized they were, I realized that we weren't going to be cutting [their] hair," Miller said.

Miller's child was placed in in-school suspension for nine days, she said. The suspension was postponed during a 60-day window to appeal the decision, which has almost run its course, Miller said.

Miller said her child has had long hair for a couple of years and that their hair length had never been a problem before.

"I have no idea what changed," Miller said. "[The district is] not saying anything, they're not responding to anybody in the community about it."

The district said its administration and board of trustees have heard from a small group of parents about concerns over the dress code policy, and they "are currently in the process of considering parent grievances on this subject matter."

According to Magnolia ISD's 2021-22 student handbook, hair must "be no longer than the bottom of a dress shirt collar, bottom of the ear, and out of the eyes for male students." Hair also cannot "be pinned up in any fashion" or "worn in a ponytail or bun for male students."

However, the ACLU argues many of the plaintiffs have worn long hair for years while enrolled in Magnolia ISD and have not faced any discipline until this year. Klosterboer said some school districts in Texas tend to rely on "old and outdated case law" as the basis for their dress code policies.

Another plaintiff, a 9-year-old Latino student identified in the lawsuit as A.C., wears long hair that he keeps in a ponytail and out of his face. His family was told on the first day of school this year that he would need to cut his hair or be sent to in-school suspension, the lawsuit says. His mother said many men in A.C.'s family wear long hair, including his dad and uncle. A.C. did not cut his hair and was placed in in-school suspension for five weeks, where he was separated from other students and wasn't able to attend his regular classes.

In September, he was sent to a "disciplinary alternative education program" outside of school for seven weeks, where he faced potentially harsher punishment. According to the lawsuit, students who don't comply with the school district's hair length policy and are sent to the alternative education program may be required to have a parent sit in class with them, go to before- or after-school detention, or lose their desk, among other measures.

This month, A.C.'s family unenrolled him from the district. However, the suit says his placement in an alternative education program has made it difficult for him to enroll in another district and he is now being home-schooled.

"Magnolia ISD has harshly punished my son and driven him out of school entirely because he is a boy with long hair. ... The district needs to stop harming our children," Azucena Laredo, A.C.'s mother, said in a statement.

In 2020, a federal judge granted two Black students from a Houston-area school district temporary relief after they were told they would have to cut their hair, which they wore in dreadlocks, to abide by district dress code policy. The case, which caught national attention, also landed on the radar of Texas lawmakers, who introduced their own version of the CROWN Act, legislation that would prohibit hair discrimination based on hair texture and protective styles that are usually associated with race. The legislation, House Bill 392, advanced out of committee during the regular session but was not taken up on the House floor for a vote.

Outside of Texas, federal courts have ruled in cases from Indiana and North Carolina that gender-specific dress codes could be linked to gender discrimination under federal law, according to the ACLU and the Texas Association of School Boards.

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Energy

Your Gasoline, Natural Gas And Electric Bills Are All Going Up This Winter
By Marcy de Luna
Houston Chronicle

Energy prices are climbing across the board, squeezing households already paying more for gasoline, natural gas and electricity and threatening to slow economic recovery that depends on consumer spending.

Gasoline prices are running more than $1 higher than a year ago. Natural gas prices have more than doubled, surging by one-third in just the last month. Average retail electricity prices are up about 50 percent. With winter heating season yet to come, analysts are warning consumers to brace for even higher prices — particularly if colder-than-expected weather adds to demand for natural gas, heating oil and electricity.

The surge in energy costs is forcing difficult choices for many families as they juggle bills for rent, food and utilities. At Love Network, a Baytown a nonprofit that assists low-income people, the number of applicants seeking help paying utility bills has already jumped nearly 60 percent in October, to 550 in the first three weeks of the month from 350 in all of September.

“I’ve had clients say they have to choose between paying their light bill, water bill or rent,” said program manager Brittnay Joseph.

U.S. consumers were paying 25 percent more for energy in September than a year earlier, the Labor Department reported, and energy costs might be taking an even bigger bite out of Houston household budgets. Energy prices jumped 35 percent from a year earlier in August, the most recent regional data available, according to the Labor Department.

Ada Gonzales, 66, said she can barely cover the $900 a month rent for her small home near Baytown with the $10.50 an hour she earns at a bakery, and the prospects of paying even more for heat and electricity makes her worry that she might have to cut back on food, clothes or medicine. She estimates she is already paying $55 more a month on gasoline to get to work, which has forced her to cut back on items on her grocery list such as paper towels.

“I am having problems keeping a roof over my head let alone staying warm this winter,” Gonzales said. “I live on a small budget. It is a battle to survive.”

End of cheap energy?
The surge in prices could signal that an era of cheap energy is over, analysts said. The reasons are straightforward. Energy demand is soaring as the global economy emerges from the pandemic, but supplies are not keeping up.

Oil and gas companies, under pressure from shareholders to deliver higher profits, have cut spending on new oil and gas developments and ramped up production cautiously after two oil busts in five years. Investors, eyeing the energy transition, are reluctant to devote capital to oil and gas projects that could become obsolete before

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they pay off. Renewable sources such as wind and solar are advancing rapidly, but are not yet able to fill all the gaps.

“We need to transition to cleaner sources of energy,” said Patrick Jankowski, an economist at the Greater Houston Partnership, a business-financed economic development group. “But this illustrates how painful that transition is going to be both financially and physically if people find themselves in houses where they can't afford to turn the thermostat up and be as warm as they would like.”

The transition also could be painful for the broader economy, which depends on consumer spending for about 70 percent of economic activity. Economists often compare rising energy prices to taxes — unavoidable costs that reduce discretionary spending on goods and services from electronics to new cars to restaurant meals.

Moody’s Analytics, the economic research arm of the bond rating agency, estimates that every $1 increase in a barrel of crude oil drains $3 billion from the pockets of American consumers, and crude prices have risen about $40 a barrel to more than $80 over the past year. In the fourth quarter alone, consumers will spend $28 billion more on energy than they did during that same period in 2020, according to Moody’s.

“It is a big change from last winter,” said Chris Lafakis, an energy economist at Moody's Analytics. “It's going to drain consumer spending.”

Rising energy prices can also spark broader inflation as businesses pass along higher costs of transportation, production and materials to consumers, further eroding household’s spending power and potentially spurring the Federal Reserve to boost interest rates to slow the economy and ease price pressures, with implications for rate-sensitive industries such as housing and autos. Many of the recessions in the post-World War II era were caused by the Fed raising rates to squeeze inflation from the economy.

“Almost every household item that we have, from cereal to bathroom tissue, is made using energy sources,” said Ramanan Krishnamoorti, chief energy officer at the University of Houston. “That can quickly increase prices on the shelves.”

Pinched at the pump

Gasoline is one of the most visible indicators of rising energy costs. Gasoline prices, updated almost daily on gas station signs, have climbed to seven-year highs, up more than $1 a gallon over the past year to an average of $2.85 in Houston and $3.30 nationally, according to the fuel-price tracking service GasBuddy.

And they are likely to climb as global energy demand squeezes oil markets and pushes the price of crude, the major component of gasoline, even higher, said Patrick DeHaan, senior petroleum analyst at GasBuddy. Adding to the pressure are looming natural gas shortages in Europe and Asia, which are leading power plants, factories and other industrial customers to switch to coal and petroleum fuels, increasing demand and prices.

DeHaan said there are too many variables — including how long OPEC and its allies will restrict production — to forecast how high gasoline prices might go. But, he added, “We're especially susceptible right now to any supply disruptions because oil demand is very strong. I'm pessimistic about U.S. gasoline prices.

Aaron Armstrong, a junior studying accounting at Prairie View A&M, estimates his spending on gasoline to commute to a part-time job at a Kohl’s department store has risen 20 percent to about $60 per month, making a tight budget even tighter. With higher energy costs eating into the earnings he uses to help cover college expenses and rent, he worries he’ll have to cut spending on books or even groceries.

Armstrong said he is looking to work more hours to help make ends meet, but that presents another problem.

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“I’ll have to spend more money on gas,” Armstrong said.

The other gas
For much of the past few years, natural gas, a byproduct of oil drilling, was so cheap that it was more economical for producers to just burn the gas away than pay the costs of transporting it.

Those days are gone. The spot market price for natural gas, which spent most of last year below, $2 per million British thermal units, has soared above $5 per million Btus and is projected to average nearly $6 over the next few months, according to Energy Departments. U.S. households are forecast to spend 30 percent more on natural gas this winter compared to last year’s heating costs, the Energy Department said.

Several factors have contributed to dramatic turnaround in prices. Global demand is strong and growing, not only because of the economic recovery, but also because nations are shifting power generation and industrial processes to cleaner-burning natural gas from coal. U.S. exports of liquefied natural gas tripled in the first six months of the year to an average of 9.6 billion cubic feet per day from 2.8 billion during the same period in 2020.

U.S. natural gas production, meanwhile, has stayed flat at about 91.5 billion cubic feet per day. Heading into the winter, natural gas stockpiles are running about 5 percent below average for this time of year.

Natural gas rates charged by the Houston utility CenterPoint on recent bills are nearly 30 percent higher than a year ago, according to filings with the Texas Railroad Commission, which regulates natural gas utilities. The rates are the pass-through costs of gas purchased by CenterPoint and separate from the utility’s distribution fees. The cost of natural gas accounts for about half of monthly bills.

Power connections
Natural gas-fired power plants generate about half the electricity in Texas and the country, so power prices are inevitably tied to gas prices. And they, too, are rising.

When Texas consumers get hit with higher electricity prices will largely depend on when their retail contracts end, but prices advertised on the state’s electricity shopping website Power to Choose are up 50 percent to an average of 12 cents per kilowatt hour from about 8 cents a year ago, according to Paul Paras, co-founder of the Houston electricity shopping service Real Simple Energy

In addition, Texas electric utilities received approval from regulators to increase their distribution fees by a penny per kilowatt hour as of Sept. 1. That would add $15 a month to the bill of a household using 1,500 kilowatt hours.

Houston resident Eric Oliver, a 24-year-old mental health technician, estimates he spends about $180 a month for gasoline and $155 per month on utilities for his two-bedroom apartment. With his energy bills increasing, Oliver said he’ll have to reduce other spending, like going out to a restaurant or the movies, and try to cut back driving, except to go to work.

“I am in my first apartment and this is my first time paying my own bills,” he said. “This affects how I live my life. Things will be tight budget wise.”

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Texas Power Plants Must Make ‘Best Efforts’ To Fix Problems That Led To Electric Grid Failure
Dallas Morning News

Operators of power plants and transmission lines that are part of the Texas electric grid have until Dec. 1 to make their "best efforts" to fix known problems that led to failures during last February's deadly freeze and to implement decade-old winterization recommendations that state regulators largely disregarded until this year.

That's the crux of new rules approved Thursday by the Texas Public Utility Commission — rules that the agency says will boost the grid's resiliency heading into winter, which starts in about eight weeks.

Under the rules, electric companies will be required to document that they have taken certain winterization measures — but they won't be penalized if they suffer weather-related failures or outages.

Still, members of the utility commission called the new rules a step toward greater oversight, because Texas previously had no winterization requirements. They also said "more robust and year-round preparation standards" are being developed — in conjunction with a comprehensive state weather study — although those standards won't be in place anytime soon.

The rules approved Thursday are "operational standards to be ready for this winter," said Peter Lake, chairman of the utility commission. They'll ensure that "the physical resiliency of our grid is vastly improved this winter over last winter."

But not everyone sees it that way.

"Really, at the end of the day, it just feels like they are telling operators — 'Go out and do your best,'" said Adrian Shelley with the watchdog group Public Citizen. "You would hope that (plant operators and distribution companies) were already doing their best."

Meanwhile, there's a large potential hole in the effort to get the state's power grid ready for this winter that is beyond the Public Utility Commission's purview.

The Texas Railroad Commission, which regulates the natural gas industry, has yet to put in place any new winterization mandates for wellheads and pipelines, and it also is considering enacting a rule that would allow their operators to opt out of having them designated as "critical infrastructure" within the electricity supply chain that must winterize — simply by paying a $150 application fee.

The railroad commission is taking public comment on its proposed critical-infrastructure rule until Nov. 1, with final adoption expected by Dec. 1. But a committee of state lawmakers recently excoriated the agency for it, so the rule's fate appears to be up in the air.

"You sound like you missed the urgency message" to safeguard the grid, state Sen. John Whitmire, D-Houston, told Wei Wang, executive director of the railroad commission, during a hearing three weeks ago. "That is unsatisfactory. You have unified this body" in anger at the agency.

"This is the Achilles heel right now" in grid preparations, state Sen. Lois Kolkhorst, R-Brenham, said during the same hearing. Natural gas suppliers "were as much of the problem as everything else" during the February calamity.

A lack of consistent natural gas supply for gas-fueled power plants was among the top causes of the widespread and lengthy power outages during February's massive failure of the state's electric grid, according to a preliminary report last month from the Federal Energy Regulatory Commission — coming in second behind a lack of weatherization at power plants of all types.

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But the natural gas industry has been scrambling since that disaster to avoid blame and the potential for increased regulation, paying for a report issued in April that largely absolved it of responsibility.

At least 210 Texans died for reasons related to the severe winter freeze in February — when the power grid faltered just when needed most — and property damage has been estimated at more than $200 billion.

Under the rules for this winter approved Thursday by the Public Utility Commission, operators of power plants and transmission lines have the ability to assert a "good cause exception" to certain of the new winterization requirements — meaning they essentially can apply to opt out.

In most cases, however, the exceptions granted to them would be temporary, and they would have to provide documentation of specific causes for their noncompliance and a schedule to come into compliance. Regulators also would have to sign off on the exceptions.

Overall, the winterization measures that power plants and transmission companies now must take — or at least make their best efforts to put in place — are largely those that were recommended in two reports from nearly 10 years ago, after a winter storm in 2011 caused widespread power outages on the Texas grid.

Those decade-old recommendations have never before been made into requirements, either by Texas lawmakers or state regulators. They include such things as heat tracing to protect pipes from the cold, insulation of critical parts and installation of wind breaks or enclosures for cold-sensitive equipment and sensors, as well as efforts to ensure "onsite fuel security."

The "highest-ranking representative, official, or officer" with authority over the particular plant or transmission facility also will have to provide a notarized statement that the actions have been taken. In addition, the operator of the state's power grid — the Electric Reliability Council of Texas — has the authority to inspect all facilities with 48 hours' notice.

Some power plant operators say they haven't been waiting for the new rules to get their facilities ready for the upcoming winter.

"We're voluntarily hardening our power generation fleet to withstand a once-in-a-100-year event like (the February winter storms), and we're going beyond the 2011 NERC recommendations," said Vistra Corp. spokeswoman Meranda Cohn, referring to the report by the North American Electric Reliability Corp.

Still, Public Citizen's Shelley called the new rules weak and said he's concerned the grid overall remains extremely vulnerable.

The new rules are "better than nothing," he said. "But if we have another storm at the same intensity as (the one in February), then I think people should be very concerned."

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Business/Economy

Pandemic Habits Show Up In Deloitte Survey Of Dallas-Fort Worth Holiday Shoppers
By Maria Halkias
Dallas Morning News

Dallas-Fort Worth residents have started their holiday shopping earlier and are worried about online orders arriving on time.

The pandemic overhang has sealed some shopping habits while other patterns were temporary, according to results of a Deloitte survey of D-FW shoppers released on Friday.

The survey results track some popular themes of the stay-at-home economy that dominated last year. Pet spending is down this year and shoppers say they plan to spend more on clothing than they did last year when few wardrobes needed updating just to stay home.

The Deloitte survey is the second one released this week that says people are less interested in shopping on Thanksgiving, Black Friday and Cyber Monday. Adobe Analytics' new forecast released Wednesday found the same trend.

Overall, 41% of respondents and 43% of low-income shoppers said they aren't shopping on the traditional big days, said Sam Loughry, Deloitte's retail leader in the Dallas office.

That's up significantly — by about 12 percentage points — from last year.

Last year, Black Friday was pretty dead in stores as the crowds stayed home due to the pandemic and retailers accommodated them instead with deals online.

And this year, the lack of interest in the Black Friday and Cyber Monday may partly be because holiday shopping is starting earlier. About 63% said they're going to shop before Thanksgiving, even earlier than last year, due to supply chain worries, Loughry said.

Almost half of shoppers are anticipating out-of-stock items and believe the hardest-hit categories will be electronics (53%) and toys (37%).

But spending in D-FW is holding up, Loughry said. On average, local households said they will spend $1,586, or 7% higher than the national average of $1,463. Local residents plan to spend about 4% less than last year when they doubled down on items for the home, but the forecast is up 11% from 2019.

"Folks in D-FW said their financial situation has held steady more than the national average and they plan to spend more on gifts this year than last year," Loughry said. About 78% said their household finances are the same or better than last year vs. 68% a year ago.

And online shopping habits have firmed up, he said. D-FW shoppers said they are planning to spend 60% of their holiday budgets online.

About 77% of D-FW shoppers say they continue to be motivated by free shipping and are willing to wait almost a week for a package to arrive. Almost a third (31%) said they will pay an average of about $6 for same-day delivery but won't pay for delivery times of 3 to 7 days.

About 30% of shoppers are planning to use the buy-online-and-pick-up-in-store option, about the same as last year and slightly down from 38% in 2019.

Maybe they've learned that they don't even have to get out of the car: 26% of shoppers plan to use curbside pickup, down slightly from 29% last year but well above 2019, when only 16% said they would use the service. More stores have adopted curbside pickup, and more shoppers tried it during the pandemic.

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This year, Deloitte also asked the CEOs of 30 retail companies with annual sales of at least $1 billion to respond to a survey.

“They said there will be fewer promotions (discounts) and prices will be higher,” Loughry said.

Sounds like another reason to just shop early and buy what’s in stock.

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Immigration/Border Security

Texas Sen. Ted Cruz Files Bill To Send Migrants To Martha's Vineyard, Other Coastal Cities
By Benjamin Wermund
San Antonio Express News

U.S. Sen. Ted Cruz has filed a bill to establish ports of entry in Martha’s Vineyard, Palo Alto, Calif., and other coastal cities, a bit of legislative trolling that the Texas Republican says is an effort to “alleviate the massive overload at the southern border by establishing new ports of entry in Democrat-led communities.”

The bill — a messaging effort unlikely to go far in the Democratic-led Congress — would direct the Homeland Security Department to transfer migrants from Texas border towns to 13 new ports of entry, including Cambridge, Mass., home of Harvard University, and Rehoboth Beach, Del., a regular vacation spot for President Joe Biden.

“If Washington Democrats had to endure even a fraction of the suffering South Texas families, farmers, ranchers and small businesses have had to face, our nation’s immigration laws would be enforced, the wall would be built and the Remain in Mexico policy would be reimplemented,” said Cruz, a member of the Senate Judiciary Committee.

The bill is the latest example of Cruz and other Republicans seeking to keep the spotlight on the U.S.-Mexico border, where federal officials have posted unprecedented numbers of encounters with migrants for much of this year. Biden has said he is working to rebuild an immigration system left in shambles by former President Donald Trump, while Republicans say he refuses to take the issue seriously.

Democrats were quick to pan Cruz’s bill. U.S. Rep. Bill Keating, a Massachusetts Democrat whose district includes Nantucket, another city that Cruz would target, called it a “lame political stunt.”

“Why is it that whenever Ted Cruz is facing a crisis in Texas, his mind seems to wander to vacation destinations?” Keating tweeted. “First it was Cancún, now it’s Nantucket and Martha’s Vineyard.”

Cruz drew national attention when he flew to Cancún, Mexico during the winter freeze that paralyzed the state last February.

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Transportation

Hundreds Of American Airlines Regional Flight Attendants Vote To Strike, But Walkout Still Distant
By Kyle Arnold

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Dallas Morning News

Flight attendants at one of American Airlines' regional carriers voted unanimously to strike, setting up a showdown with the company over wages and benefits even though an actual walkout is still a distant possibility.

Piedmont employees represented by the Association of Flight Attendants have spent the last three years trying to negotiate a new contract with claims that starting flight attendants make less than $17,000 a year and 10-year veterans make only $28,000 a year.

The union said those talks stalled after the company offered a new contract with small pay increases and higher health premiums. Flight attendants would earn less under the proposed contract when pay and premiums are taken together, according to the union.

About 75% of the company's 350 flight attendants participated in the strike vote.

Piedmont Airlines, a wholly owned subsidiary of American Airlines, is based in Salisbury, Md., and is a key regional carrier that flies under the American Eagle flag.

"We are already paid less than our counterparts at other regional carriers, and far less than mainline flight attendants doing the same work at the American Airlines Group," said AFA Piedmont president Keturah Johnson in a statement.

Flight attendants and other airline workers are prohibited from striking by federal rules until they are given permission to do so by federal labor regulators. AFA members participated Thursday in informational pickets at Philadelphia International Airport.

It would still be months or longer before flight attendants at Piedmont could actually walk off the job and disrupt the company's flight operations. Airline employees and unions are under complex federal rules and workers must get permission from the National Mediation Board before being allowed to strike.

To do that, the union would need to prove to the mediation board that negotiations are at an impasse. The board could call for a 30-day "cooling-off period" before leading to a strike deadline.

In a statement, Piedmont said it's still working toward "getting a competitive contract."

"We are in agreement our team members deserve the best contract and we are committed to delivering that to them," Piedmont said in a statement. "We look forward to getting back to negotiations in November."

"We've seen in the last few months how delicate the aviation system is, and how much it depends on every worker," said AFA International president Sara Nelson in a statement. "Piedmont Flight Attendants want a fair deal, but if it takes a strike, we've got their backs across the industry."

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Health Care

As Delta Wave Fades, Texas Children's Battles Fatigue - And A Troubling Chain Of Infections
By Nora Mishanec
Houston Chronicle

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Isaiah Gonzalez grimaced as the nurse approached his hospital bed, his small hands bound with surgical tape to safeguard the tubes delivering a steady flow of antibodies to his bloodstream. He squeezed his pink-stained eyelids shut as the masked nurse put a thermometer in his armpit to check whether his skyhigh fever had fallen. He was thinking of monkeys.

“I want to go to the zoo,” the 3-year-old said, reaching for his mother as his face twisted in distress.

It has taken all Isaiah’s powers of imagination to escape the confines of his bed in the intensive care unit at Texas Children’s Hospital. He is battling multisystem inflammatory syndrome in children, or MIS-C, a dangerous but poorly understood illness that arose with the coronavirus pandemic last year. Fevered and weak, the Bayview resident was hospitalized earlier this month as the inflammation attacked his heart, kidneys and blood vessels.

Hospitalizations like Isaiah’s were relatively rare throughout the COVID-19 pandemic. But as the delta tsunami recedes, it has left in its wake a troubling chain of infections among children too young to be vaccinated — and a deepening exhaustion among the health workers caring for them. The uncertainty about the coming months is adding to their fatigue, in a region where vaccination rates remain far below the levels required to stamp out community spread.

“Our resilience is not unlimited,” said Dr. Lara Shekerdemian, chief of critical care at Texas Children’s and the physician overseeing Isaiah’s treatment.

Shekerdemian and her staff are still reeling from the stress of the “surprise” summertime surge that sickened children at an alarming rate, inundating the five units devoted to intensive care at the nation’s largest pediatric hospital. Soft-spoken but formidable, with a gentle English accent, she leaned against a nurses’ station as she recalled recent months when patients waited in the hallways for an empty bed.

The hospital’s intensive care units are no longer jammed with young coronavirus patients, but MIS-C presents a new challenge, even as the virus appears to be in retreat. Of the many mysteries of the pandemic, the rise of MIS-C — a rare but treatable syndrome that typically affects school-aged children weeks after a COVID exposure — may be the most puzzling for pediatricians. More than 5,200 American children have been diagnosed with MIS-C since it was first observed at the beginning of the pandemic; 46 have died.

“We never thought, 20 months ago, that it would be like this,” said Shekerdemian.

The future of the pandemic, and how deeply it may affect the holiday season, depends, as ever, on the vagaries of viral mutation and human behavior. That’s according to Catherine Troisi, an infectious disease epidemiologist at UTHealth School of Public Health who studied HIV/AIDS before shifting her focus to coronavirus last year.

“Is a new variant going to arrive that is more infectious than delta?” Troisi said.

The answer, for now, appears to be no. The waning delta variant, which sickened children far more than previous strains, is still out-competing all other mutations.

More critical, she said, is whether mandates and other efforts aimed at vaccine hold-outs — some 30 percent of eligible Americans — will curb case counts before families gather at Thanksgiving and the winter holidays. Troisi is monitoring the data for signs of hope, both as an epidemiologist and as a grandmother who wants to visit her grandchildren at Christmastime.

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But vaccination rates among Texas teenagers remain stubbornly below 50 percent, even as many high schoolers return to their classrooms unmasked. That may be a worrying harbinger for what is to come when vaccines are approved for kids ages 5 to 11, Troisi said, as some parents remain hesitant despite public health messaging promoting the shots.

“A lot of it is in our control as a community,” she said.

While children suffered from severe COVID infections at a far lower rate than adults early on in the pandemic, the idea that kids like Isaiah are safe from the disease crumbled with the delta wave, blindsiding pediatric health care providers with an unprecedented crush of childhood cases. The persistence of MIS-C is compounding their anxiety about the coming months.

“We got a false sense of security,” said Nicole Leathers, an ICU nurse manager at Texas Children’s. “And then we had this delta variant followed by a bunch of MIS-C and we were like, ‘Oh wait, this is completely different.’”

When Gia Gonzalez, 19, fell ill with a mild case of COVID last month, she monitored her son Isaiah for signs of sickness; he never showed any, so she didn’t worry.

Then came the phone call every mother dreads.

On HoustonChronicle.com: New moms fight for their lives away from newborns, as Houston sees rise in pregnant COVID patients

She was finishing her shift at the Bayview Circle K convenience store where she works earlier this month when her mother called to say Isaiah was lethargic and running a high fever.

Gia rushed home to nurse her son through the night. He woke every few minutes to sip the diluted yellow Gatorade she put in his Spider-Man sippy cup. By morning, a vivid rash had bloomed across his eyes and cheeks. He was so weak he couldn’t move.

“It was scary,” Gia said. “He wouldn’t talk or eat.”

The listless boy in the bed bore no resemblance to the normally energetic 3-year-old Gia had raised: a shaggy-haired troublemaker who loved to jump on the bed and race around the backyard with his cousins. As Gia looked as her son, she felt fear and confusion. It had happened so fast.

Like the facial rash, the sudden onset of Isaiah’s symptoms is typical of the inflammatory syndrome, which can infect otherwise healthy children, even those who had no discernible signs of COVID. It usually begins two to three weeks after a COVID exposure.

When Isaiah became unresponsive the following afternoon, Gia called an ambulance. She packed a backpack of essentials, including the fraying Paw Patrol blanket that Isaiah carried everywhere. Paramedics transported them to the hospital, where he was admitted to the ICU.

Timing was on his side.

Had he fallen ill during the summer surge, he may have had to wait for a bed. At its peak in late August, nearly 100 children were hospitalized daily with COVID in the greater Houston area. Two months later, pediatric COVID hospitalizations have dropped by two-thirds. But those numbers do not capture the steady trickle of patients like Isaiah, who are nominally negative for the virus but suffering from its cruel after-effects.

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TX-SOS-22-0155-B-000135

Gia had never heard of MIS-C, so the doctors explained the diagnosis. They told her it is treatable with intravenous medicines to protect her son's heart, kidneys and other organs from lasting damage.

With braces taped to his hands to prevent the intravenous tubes from kinking, Isaiah barely slept their first night in the ICU. Gia lay awake beside him, their bodies fitting snugly in the child-sized hospital bed.

She is not the only one who has been losing sleep.

Even at a well-funded metroplitan hospital like Texas Children's, the relentless pace and erratic trajectory of the pandemic has left staffers fatigued and overworked. Leathers, the ICU nurse manager, said the experience has broken down the hierarchy between doctors and nurses and forced many to jettison the "brash, tough Navy Seal mentality" that used to predominate.

Leathers worked the pediatric ICU floors one recent Sunday, even though she wasn't on duty. It was a taxing shift. One patient died, another went into cardiac arrest. Before the pandemic, she might have brushed it off. But instead, Leathers called her manager to decompress.

"I cried the whole way home," Leathers said.

Isaiah was discharged from the ICU late Wednesday, but he is due back at the hospital for an echocardiogram in five days. The doctors must determine whether the inflammation has caused any lasting damage to his heart.

Gia hopes Isaiah recovers in time for his 4th birthday on Oct. 30. To celebrate, she is planning to take him trick-or-treating for Halloween. He will be dressed as Spider-Man.

Mother and son are looking forward to resuming their regular trips to the zoo, where they made bi-weekly visits throughout the pandemic.

It's been a while since they've seen the monkeys.

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# # #

Administration News

Paxton Sues Biden In Attempt To Revive Border Wall Construction
By Jasper Scherer
Houston Chronicle

Texas Attorney General Ken Paxton on Thursday sued the Biden administration for halting construction of the southern border wall, arguing that Department of Homeland

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Security officials must spend funds approved by Congress for the barrier under the Trump administration.

In a lawsuit filed in the U.S. District Court for the Southern District of Texas, Paxton joined with Missouri Attorney General Eric Schmitt — a fellow Republican — to contend that President Joe Biden ran afoul of the law when he issued an executive order pausing all wall construction on his first day in office.

The argument mirrors one from Senate Republicans who earlier this year requested that a nonpartisan watchdog agency review whether Biden's order had infringed upon Congress' "constitutional power of the purse." The Government Accountability Office found that Biden was authorized to delay the wall funding, though Paxton's lawsuit notes the agency also recommended that the White House submit a timeline for spending the funds.

"The President and his agencies may not unilaterally override duly enacted appropriations bills to fulfill a campaign promise," the lawsuit reads.

Paxton and Schmitt argue that Biden is violating the constitutional doctrine known as the separation of powers, which generally divides the federal government into three separate branches. They also contend that Biden violated a 1974 law that established restraints on when the president and other officials could withhold funds approved by Congress.

Biden, who vowed throughout his presidential campaign to stop building the wall, said upon signing his executive order that "a massive wall that spans the entire southern border is not a serious policy solution." In June, he diverted $2.2 billion in wall funding to the Department of Defense for military construction projects.

Texas Republicans, including Paxton and Gov. Greg Abbott, have been some of the loudest critics of Biden's border policies, blaming the White House for a surge in migrant encounters along the southern border.

Last month, the Legislature approved roughly $1 billion for Abbott's plan to continue building the wall, part of a $1.8 billion spending package that also funds a surge in state troopers to the border.

On HoustonChronicle.com: Texas lawmakers approve $1.8B for border security requested by Abbott

The federal government built about 450 miles of new barriers during the Trump administration, mostly in Arizona.

Land Commissioner George P. Bush, a Republican who is trying to unseat Paxton in the 2022 primary, filed a similar lawsuit in July — one that was also based on the argument that Congress had already approved wall funding.

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On Thursday, Bush senior adviser J.R. Hernandez responded to Paxton on Twitter, criticizing the attorney general for filing "the exact (same) lawsuit" as Bush.

"They say immitation (sic) is the most sincere form of flattery but maybe if you weren't so plagued with scandal you'd be more focused on the #bidenbordercrisis," Hernandez wrote.

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Patterson, Who Led Alamo Transition, Appointed To State's 1836 Project Advisory Panel
By Scott Huddleston
San Antonio Express News

Jerry Patterson, who oversaw a 2011 transition at the Alamo as state land commissioner when the General Land Office replaced the Daughters of the Republic of Texas as the site's custodian, is one of three people appointed by Lt. Gov. Dan Patrick to serve on the nine-member 1836 Project Advisory Committee.

The project, named for the year Texas won independence from Mexico before becoming a U.S. state 10 years later, is touted in a news release from Patrick's office as an effort "to promote patriotic education and increase awareness of the Texas values that continue to stimulate boundless prosperity across this state." Some critics have said they're worried the committee, in its zeal, will omit controversial aspects of the state's history, including racial unrest and social and economic disparities.

Also appointed by Patrick were Sherry Sylvester of San Antonio, former senior adviser to Patrick and a Distinguished Senior Fellow at the Texas Public Policy Foundation, with a focus on Texas history and identity; and State Sen. Brandon Creighton, R-Conroe, an eighth-generation Texan.

The release noted that Patterson, of Austin, served as land commissioner and state senator, is a U.S. Marines veteran and was named 2007 Texan of the year by Celebrate Texas, a nonprofit group that promotes Texas independence events.

"The 1836 Project will play a key role in ensuring that future generations learn the truth about Texas history, and about the core values that have contributed to making Texas the greatest state in the country," Patrick said in a release.

Gov. Greg Abbott announced his three appointments to the panel last month: author-educator Carolina Castillo Crimm of Huntsville, retired as history professor emeritus at Sam Houston State University; history scholar Don Frazier of Kerrville, director of The Texas Center at Schreiner University and former professor at McMurry University in Abilene; and Kevin Roberts of Liberty Hill, CEO of the Texas Public Policy Foundation.

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The other three appointments, by House Speaker Dade Phelan, have not been announced.

Under House Bill 2497, which Abbott signed in June, the committee primarily is tasked with producing a pamphlet on the state's history for Texans receiving driver's licenses. It also will create a gubernatorial award to celebrate student knowledge of the state's history, and advise state agencies on how they relay historical facts in museums, landmarks, state parks and other areas.

But Patterson said the group's work will be focused on the pamphlet. Even though Patrick has taken a lead roll in securing state funding for an extensive public-private makeover of the Alamo that includes construction of a museum, Patterson said he doesn't foresee the panel's work having a direct impact on the Alamo project, whose key partners include the city of San Antonio and nonprofit Alamo Trust.

"The Alamo is part of our history and I can't see how anything we do will affect the Alamo in any significant way. The biggest problem we have is covering the wide expanse and lengthy narrative of Texas in a single pamphlet," Patterson said.

In the final years of his tenure as land commissioner from 2003 to January 2015, Patterson oversaw change at the Alamo, but retained the DRT as the site's operations contractor. He helped negotiate an Alamo exhibit of the state-owned "victory or death" letter signed by William Barret Travis; opened the first-ever Alamo exhibit devoted extensively to Tejano defenders and survivors of the 1836 battle; and helped negotiate the donation of artifacts to the Alamo by musician Phil Collins.

Patterson also promoted the concept of reclaiming as much of the Alamo's historic footprint as possible, and putting it under management of a "single authority."

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Texas Attorney General Ken Paxton Sues Biden Administration In Bid To Force Construction Of U.S.-Mexico Border Wall
By Uriel J. Garcia
Texas Tribune

Texas Attorney General Ken Paxton and his counterpart from Missouri filed a lawsuit on Thursday against the Biden administration, claiming it broke the law by halting border wall construction along the U.S.-Mexico border.

"The Biden administration's flat refusal to use funds that have already been set aside by Congress to build the border wall is not only illegal and unconstitutional," Paxton said, "It's also wrong, and it leaves states like Texas and Missouri footing the bill."

On Inauguration Day, Biden ordered a pause on all border wall construction and an assessment of federal government contracts already awarded for the project, calling

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former President Donald Trump's signature promise a "waste of money" and saying that it was "not a serious policy solution."

The lawsuit, filed against Biden and Department of Homeland Security Secretary Alejandro Mayorkas in the U.S. district court in Victoria, argues that Congress had set aside $1.375 billion to construct barriers along the southwest border and that the Biden administration doesn't have the constitutional authority to refuse to spend money that Congress authorized for border wall construction.

Trump's administration erected about 80 miles of new barrier before he left office, including 21 miles along the Texas-Mexico border.

The Department of Homeland Security didn't immediately respond to an emailed request for comment.

This lawsuit is the second filed by Paxton and Missouri Attorney General Eric Schmitt against the Biden administration.

Earlier this year, Paxton and Schmitt sued the Biden administration, claiming it had violated administrative law by ending the Migrant Protection Protocols, a Trump-era program unofficially called "remain in Mexico," which forces asylum-seeking migrants to stay in Mexico as their legal cases are pending. The lawsuit argued that human trafficking would increase if MPP was rescinded and that it would cause the two states financial harm.

District Judge Matthew J. Kacsmaryk agreed with Paxton and Schmitt; the Biden administration has said it will obey the judge's order and restart the policy next month.

Mexico's government had previously agreed to receive the migrants under the Trump administration, but it hasn't said if it will do the same for the Biden administration.

"We need to finish President Trump's wall," Schmitt said on Thursday during an El Paso news conference announcing the new lawsuit.

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State News

Republicans Slam Rodney Ellis' Proposal To Redistrict Harris County, Claim It Will Create 'Chaos'
By Zach Despart
Houston Chronicle

The two Republican Harris County commissioners say a proposal by Democrats to redraw commissioner precinct boundaries will cut services and dilute the influence to of conservative residents.

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The proposed map by Precinct 1 Commissioner Rodney Ellis would significantly alter the shapes of precincts 3 and 4, the two represented by Republicans. Precinct 4 would arch along the county's northern edge from Katy to Baytown, while Precinct 3 would be entirely west of Loop 610.

New Harris County commissioner precinct boundaries proposed by Precinct 1 Commissioner Rodney Ellis would likely benefit Democrats.
New Harris County commissioner precinct boundaries proposed by Precinct 1 Commissioner Rodney Ellis would likely benefit Democrats.

Precinct 3 Commissioner Tom Ramsey called Ellis's map "the most corrupt plan I have ever seen my 45 years in doing work in Harris County."

"The objective is control," Ramsey said Thursday on the Michael Berry Show on radio. "The objective is to create the most chaos as possible, because (the Democrats) cannot stand the fact that 3 and 4 function very well. … It drives them crazy, so they want to blow it up."

Ramsey said he is particularly concerned that Precinct 4 would by far have the largest share of residents living in unincorporated areas, who rely on the county for services like parks and community centers. Ramsey predicted a strain on that precinct would lead to cutbacks.

Precinct 4 Commissioner Jack Cagle said the Ellis map, if approved, could allow Democrats to finally capture a fourth seat on Commissioners Court, which would allow them to set tax rates without any input from Republicans. In an email to constituents, Cagle predicted that would lead to future tax increases.

Cagle has proposed a map of his own. It largely keeps the current shapes of the precincts intact, while ceding parts of precincts 3 and 4 to precincts 1 and 2.

Commissioners Court redraws the four precinct boundaries after every decennial census. The process is needed to ensure each precinct has roughly the same population; precincts 3 and 4 grew much faster over the past decade, and, therefore, would lose some constituents.

Much as Republicans have done with Texas Legislature and U.S. House districts during the last two decades, the Democrats who control Harris County also can shift boundaries for their political advantage.

The highest political priority for county Democrats is to protect Precinct 2, which Adrian Garcia won by less than 1 percent in 2018. The Ellis proposal would transfer a corridor of Republican-leaning communities in northeast Harris County, including Huffman and

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Crosby, from Precinct 2 to Precinct 4. Garcia's precinct also would gain parts of heavily Democratic Precinct 1, including East Houston and a portion of Acres Homes.

Those changes, if approved, likely would help make Garcia's re-election bid next year much easier.

More than 100 residents testified at a public hearing Thursday on the redistricting proposals, mostly in opposition to the Ellis plan. Several said they oppose a precinct that stretches more than 50 miles from the west to east sides of the county.

"Harris County residents will be in grave danger in a hurricane as response teams will have to travel the distance from Katy to Baytown," said Precinct 3 resident Michelle Heinz.

Chris Daniel, a former Republican county district clerk, said it is more important for commissioner precincts to have sensible shapes than legislative districts because they also contain parks, community centers and trails. He cautioned against making significant changes to the current boundaries.

"These are lines that are very difficult to move because of infrastructure that's in place," Daniel said.

Precinct 3 resident Adrian Ozuna said he supported Ellis's proposal because it keeps minority communities like Sharpstown in a single precinct, a key goal of the Voting Rights Act. Abel Garza praised the Ellis plan because it places Aldine entirely in Precinct 1 instead of dividing the mostly Latino community into three precincts.

"There was a point in time where nobody wanted Aldine," Garza said. "We welcome any map where we can work with one commissioner instead of three. That way we know who to contact or, more importantly, who to yell at when things aren't getting done."

Some residents are tired of the politicking involved in drawing districts. Marc Anderson submitted a proposal calling for the county to be divided neatly into four quadrants, with Houston in the middle, and call it a day.

"Stop trying to carve it up in some weird way," he wrote in his proposal. "This should give each precinct a good mix of different communities and different demographics and would be fairly middle of the road politically."

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Poor Texans Wait In Limbo As Dems Squabble In D.C.
By Robert Downen
Houston Chronicle

It was once a unifying policy for Democrats.

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But now, child tax credits are at the center of an increasingly bitter budget fight on Capitol Hill, a battle that will have profound implications for the millions of poor families in Harris County and Texas.

At issue are child tax credits that were expanded in March as part of the latest federal COVID-19 stimulus package.

The legislation upped the per-child credits from $2,000 to $3,600 per child under age 6 and from $2,000 to $3,000 for children older than 6.

The expansion also allowed families to receive some of the money in direct, monthly installments.

And, per Columbia University researchers, it also helped raise millions of children out of poverty just as the delta variant began to overwhelm hospitals, shutter businesses and, yet again, push millions of Americans into unemployment seemingly overnight.

About 1 in 6 American children live in poverty — one of the highest rates among all developed nations — and so it makes sense the widespread use and popularity of the child tax credit expansion.

In the four months since the program was opened, more than $61 billion has been allocated to American families in need, according to a report released last week by the U.S. Department of Treasury and Internal Revenue Service.

Texans have received about one-tenth of that money, with about $6.2 billion paid through roughly 3,600 credits — an average of roughly $444 per month, per child, according to the report.

Now, with the extension set to sunset at year's end, child tax credits are among a handful of policies that have left Congressional Democrats at an impasse as they try to pass an ambitious, budget bill of around $2 trillion that would, among things, extend the credits through 2025.

The budget proposal, once pegged at $3.5 trillion, is being scaled back to win over two moderate Democrats — West Virginia Sen. Joe Manchin and Arizona Sen. Krysten Sinema. With united Republican opposition, Democratic leaders need support from both to pass the bill in the evenly divided Senate.

President Joe Biden is reportedly considering extending the child tax credit expansion for just one year as a compromise to satisfy moderates. Manchin has proposed means-testing the program, which would shrink the number of eligible children by an estimated 37 million. Regardless of how the standoff shakes out, it will have real consequences for

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millions of low-income people in Texas and Harris County, where roughly 1 in 5 children live in poverty.

“That is hundreds of thousands of children in Harris County, one of the most prosperous counties in the most prosperous country in the world,” County Judge Lina Hidalgo said this week.

Texas was one of two dozen states that opted to end other COVID relief programs before they were set to expire in September. The move was favored by Republicans and some businesses who argued that the programs were keeping people out of the workforce — claims that have been questioned by economists and poverty researchers.

No wonder, then, that Harris County leaders have gone on the offensive while they can.

Last week, county commissioners approved $500,000 to fund outreach efforts to low-income families who may qualify for the child tax credits, but have been unable to navigate an application process that some have decried as confusing and arbitrary.

Hidalgo said the outreach efforts are part of a broader “paradigm shift” in poverty prevention.

Parents seeking the credits still have until Nov. 15 to apply for the program.

What happens after that? All bets are off — and all eyes are on two senators who can turn into reality what was once a Democratic Party pipedream.

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Texas Voters Will Decide Eight State Constitutional Amendments On Nov. 2. How Would They Impact You?
By Sami Sparber
Dallas Morning News

With early voting for the Nov. 2 election underway, Texas voters are deciding whether to approve eight changes to the state constitution, including two that stem from issues that arose from the state’s response COVID-19.

A majority of voters must support each of the proposed amendments, which were greenlit by the Legislature earlier this year, to put the changes on the books. Early voting runs through Oct 29.

Here’s what you need to know about how the proposed constitutional amendments could impact Texans and their communities.

Pandemic response

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Two of the proposed amendments respond to government restrictions that were imposed during the COVID-19 pandemic. Officials across the political spectrum have come under fire for their handling of the ongoing health crisis, whether it be over shutdowns or mask mandates.

Proposition 3 would prohibit any governmental entity from enacting any rule prohibiting or limiting religious services.

The proposed change, hailed by supporters as protecting religious freedom, comes after some places of worship were limited during pandemic lockdowns.

What you'll see on the ballot: "The constitutional amendment to prohibit this state or a political subdivision of this state from prohibiting or limiting religious services of religious organizations."

Proposition 6 would allow residents in nursing homes and similar long-term care facilities to designate an essential caregiver who could not be denied in-person visitation.

The proposed amendment responds to facility closures earlier in the pandemic, when residents were isolated from loved ones for months.

What you'll see on the ballot: "The constitutional amendment establishing a right for residents of certain facilities to designate an essential caregiver for in-person visitation."

Elections for judges
Proposition 4 would require judicial candidates to be Texas residents with a license to practice law in Texas, to be a practicing lawyer or judge for at least eight to 10 years before election and not have had their law license revoked or suspended during that time.

Supporters say the proposal is meant to ensure a higher quality judiciary. Critics worry the stricter requirements could exclude younger, more diverse lawyers from judicial appointments or races.

What you'll see on the ballot: "The constitutional amendment changing the eligibility requirements for a justice of the supreme court, a judge of the court of criminal appeals, a justice of a court of appeals, and a district judge."

Proposition 5 would allow the State Commission on Judicial Conduct to take complaints, conduct investigations and take other action against a candidate running for state judicial offices. The commission currently only handles officeholders, not candidates.

The lawmakers behind the proposed amendment said it seeks to "ensure that judicial elections are fair" by holding candidates and sitting judges to the same standards.

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What you'll see on the ballot: "The constitutional amendment providing additional powers to the State Commission on Judicial Conduct with respect to candidates for judicial office."

County infrastructure
Proposition 2 would authorize counties to issue bonds to fund transportation and infrastructure projects in neglected or underdeveloped areas. Cities can already issue these bonds, but not counties.

The amendment would allow counties to use increases in property tax revenue in the area to repay the bonds. Critics, such as the state Republican Party, argue the proposal would create more local debt.

What you'll see on the ballot: "The constitutional amendment authorizing a county to finance the development or redevelopment of transportation or infrastructure in unproductive, underdeveloped, or blighted areas in the county."

Other proposed amendments
Proposition 1 would allow the Professional Rodeo Cowboys Association and the Women's Professional Rodeo Association to hold charity raffles at rodeo events, much like Texas' professional sports teams do at their home games.

What you'll see on the ballot: "The constitutional amendment authorizing the professional sports team charitable foundations of organizations sanctioned by the Professional Rodeo Cowboys Association or the Women's Professional Rodeo Association to conduct charitable raffles at rodeo venues."

Proposition 7 would allow a surviving spouse of a person who is disabled and receiving homestead exemptions on school district property taxes to continue to take advantage of the exemption, as long as the surviving spouse is 55 or older.

What you'll see on the ballot: "The constitutional amendment to allow the surviving spouse of a person who is disabled to receive a limitation on the school district ad valorem taxes on the spouse's residence homestead if the spouse is 55 years of age or older at the time of the person's death."

Proposition 8 would extend tax exemptions to a surviving spouse of a member of the military who dies because of any injuries sustained during their service, whether it is related to combat or not.

What you'll see on the ballot: "The constitutional amendment authorizing the legislature to provide for an exemption from ad valorem taxation of all or part of the market value of the residence homestead of the surviving spouse of a member of the armed services of the United States who is killed or fatally injured in the line of duty."

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Education

Allen ISD Parents Refile Mask Mandate Lawsuit, Adding McKinney ISD, TEA As Defendants
By Francesca D'Annunzio
Dallas Morning News

An attorney representing parents in Allen ISD refiled a federal civil rights lawsuit today over their school district's lack of a mask mandate, adding the parents as plaintiffs to a lawsuit originally filed late last month against Frisco ISD, Lago Vista ISD, Hurst-Euless-Bedford ISD and Grapevine-Colleyville ISD.

The amended complaint — filed in U.S. district court in the Western District of Texas instead of the Eastern District, as it was at first, adds three defendants: the Texas Education Agency, McKinney ISD and Tomball ISD, in the Houston suburbs.

The lawsuit seeks a temporary restraining order and permanent injunction that, if successful, would require the Texas Education Agency to adhere to Centers for Disease Control and Prevention guidelines for all the districts named in the case — including universal masking.

The change of venue means that instead of receiving a ruling in the Eastern District from U.S. District Judge Sean Jordan, who was initially assigned to the case, the lawsuit will be heard by U.S. District Judge Robert Pitman.

Jordan was nominated by a Republican, former President Donald Trump, and Pitman was nominated by former President Barack Obama, a Democrat.

Allen ISD said in a prepared statement late Thursday that the plaintiffs' attorney, Martin Cirkiel, is "forum shopping" — or choosing to file in a court that will treat the lawsuit's claims more favorably.

"Once again, this process will cost Allen ISD considerable man hours and legal fees to defend itself in court," the statement read.

The district also said it would continue to follow its COVID-19 safety procedures "that have resulted in low active case rates," of 0.16% of the student population.

Cirkiel, McKinney ISD and the Texas Education Agency did not immediately respond to requests for comment.

Previous lawsuit
Allen ISD parents dropped their original civil rights lawsuit two weeks ago, after Jordan denied their request for a temporary restraining order against the school district. He had not yet ruled on a permanent injunction.

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Officials said the district has already spent tens of thousands of dollars defending the suit.

“To hear the AISD lawyers argue they don’t have a legal duty to protect our kids from other kids really shocked and hurt me,” Therissa Grefsrud, a district parent named in the lawsuit, said after the first hearing in early October.

“And then to see them essentially light a cigar and claim victory … there aren’t winners in this COVID-19 pandemic.”

Allen ISD said in a prepared statement after the denial that it was an “important victory” and that its strong case in court likely influenced the parents to drop the case, but their attorney denied that.

“This decision was not made because we feel AISD is providing reasonable COVID safeguards based on medical guidance. This decision was not made because we feel AISD has a strong legal case,” their attorney’s office said in a prepared statement at the time.

The federal class-action lawsuit filed on behalf of more than 1,000 parents in early September alleged that the Allen school district’s refusal to require masks violated students’ constitutional rights to life, liberty and the pursuit of happiness.

Other COVID-19 protocol lawsuits filed in Texas and other states are alleging discrimination against disabled students. But the legal complaints filed against North Texas districts allege a violation of the constitutional rights of all students, according to a statement from the plaintiffs’ law firm.

Allen ISD and many other parents in the district dispute the lawsuit’s claim that not requiring masks — which public-health experts say can slow the virus’ spread — is a violation of constitutional rights.

“The District, however, strongly disagrees that the students’ constitutional rights have been violated by leaving masks as an option for students and staff,” spokesman David Hicks said in a prepared statement to The Dallas Morning News last month.

Allen parents previously told The News that they felt legal action was the last recourse they had to keep their children safe. In the weeks leading up to the lawsuit’s filing, parents protested outside school board meetings, sent Allen ISD a grievance letter with hundreds of signatures and pleaded with the district to change its policy.

Parents said the litigation wasn’t about the money, but about health and safety — especially for kids too young to be vaccinated.

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"I want my kids to be in a safe learning environment," Grefsrud, a registered nurse specializing in infection prevention and epidemiology, said last month. "And I think that all of our kids in this community deserve a safe learning environment."

COVID-19 cases among children
New admissions for coronavirus patients are declining in the four most populous North Texas counties, according to UT Southwestern Medical Center, and city data show that Allen's active cases of the virus have decreased for six consecutive weeks.

But a disproportionate number of severe cases are occurring among children.

During the most recent COVID-19 surge over the summer, pediatric COVID-19 hospitalizations were seen at unprecedented levels, peaking in early September. Providers said they saw an uptick in kids testing positive for the disease in August and September compared with prior months.

As of Oct. 21, Allen ISD has at least 40 active cases of COVID-19, according to the district's dashboard. Half of the cases are in elementary school students, data show.

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With Texans Falling Short Of College Degree Goals, State Prioritizes Credentials, Earnings
By Megan Menchaca
Austin American Statesman

Texas is the first state to set higher education goals connected directly with the earnings related to postsecondary credentials in new guidelines set by the Texas Higher Education Coordinating Board.

The board, which oversees all higher education in the state, unanimously approved changes to its so-called 60x30 plan that would increase its focus on adult learners, prioritize "credentials of value" and give college students equitable access to information and resources.

The primary goal of the initial 60x30 plan was for at least 60 percent of Texans ages 25-34 obtain a certificate or degree by 2030. The plan, adopted in 2015, also aimed to have college graduates complete programs with marketable skills and to keep undergraduate student loan debt from exceeding 60 percent of first-year wages by 2030.
The board updated the primary goal to track "credentials of value" obtained by young Texans in addition to certificate or degrees during its quarterly meeting on Thursday. It also will be monitoring the percent of Texans ages 35-64 who obtain certificates, degrees or credentials of value by 2030 and collect more data on the finances associated with those credentials, such as median earnings and net cost of attendance.

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Melissa Henderson, the board's associate commissioner for strategic partnerships, said credentials of value can include degrees and certificates along with badges, apprenticeships and industry certifications. Along with the typical degrees and certificates, she said these credentials help students establish a path into the workforce.

"We've already laid a strong foundation for the Texas workforce over the past two decades by increasing postsecondary attainment," Henderson said. "However, the modern economy demands more that we award credentials that offer purpose in the economy, value in the labor market and opportunity for a good job and meaningful career."

The change comes as Harrison Keller, the Texas commissioner of higher education, acknowledges that the board was not on track to meet its primary 60x30 goal in the next nine years. About 44.5% of Texans aged between 25 to 34 obtained a certificate or degree in 2019, and the state is currently forecast to grow that number to approximately 54.5% by 2030, according to data presented at the meeting.

"We're going to have to double down on our engagement and enrollment as students," Keller said. "We're particularly going to have to work with our institutions on having more flexible short-term credentials that are valuable for individuals and aligned with current emergent workforce needs."

As part of an effort to make information more accessible, the board plans to publish data in the future about the career trajectories and earnings associated with different types of credentials. The board is also working with the Texas Workforce Commission to create a state credential database with a list of available credentials, Keller said.

"A lot of folks told us .. was that while cost was a barrier (in pursuing credentials), on the same magnitude were issues related to advising," Keller said. "Folks might know that they might need some additional training, some additional education to advance in their careers, but they weren't sure what kind of education they should pursue or how that might lead to a better job."

The board approved plans to track the percentage of graduates with "no or low student debt" related to their potential earnings based on the credentials they earn. Nearly 40 of Texas college students had student debt during the 2019-20 academic year, according to a report on student financial aid in Texas higher education.

Keller said two students who graduate from college might have the same amount of debt, but they could have different projected earnings based on the degree they graduate with. He said if the state doesn't maintain or improve its commitment to need-based financial aid, more students could have high and unsustainable levels of debt when they complete their credentials.

"Included in that notion of (measuring) high debt or no debt also is an emphasis on the shared responsibility among the students and their families, the institutions and also the

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state of Texas, and ensuring that these higher education credentials are going to be accessible and affordable," Keller said.

Henderson said the COVID-19 pandemic had demonstrated how quickly specific jobs and marketable skills can change, and so college credentials must propel graduates into careers that equip them for their future while also providing greater economic mobility and low student debt.

"Manageable student debt is essential to expand economic mobility for historically underserved populations who have often had the greatest means that the least access to higher education and support services," Henderson said. "This combination of increased value and economic mobility for students also translates into greater economic prosperity."

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ACLU Of Texas Sues Houston-Area School District Over Gender-Based Dress Code's Long-Hair Policy
By Allyson Waller
Texas Tribune

The American Civil Liberties Union of Texas is suing a Houston-area school district over a dress code policy it says has led to multiple students being disciplined for having long hair.

Plaintiffs in the lawsuit include six boys and a nonbinary student ages 7-17 from Magnolia Independent School District. According to the lawsuit, which was filed in federal district court Thursday morning, the Magnolia ISD gender-based policy "imposed immense and irreparable harm" on the students, some of whom claim they have worn long hair for years while attending school in the district without any repercussions.

The lawsuit says the students have been threatened with or sent to in-school suspension for weeks at a time; some were placed in a "disciplinary alternative education program," leading three of them to unenroll from the school district. The suit also states that while the plaintiffs have been disciplined for the length of their hair, other students with long hair, such as those on high school football teams, have not faced discipline.

"To be kicked out, pushed out, of school entirely simply because of their gender and their hair is really unconscionable," ACLU of Texas staff attorney Brian Klosterboer said.

Klosterboer said the ACLU warned Magnolia ISD numerous times about how its dress code policy's gender-specific requirements violate equal protection under the 14th Amendment and Title IX, which prohibits discrimination in education institutions on the basis of sex.

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In a statement, Magnolia ISD disagreed with the ACLU's claims and said it was reviewing “the lawsuit with its legal counsel and looks forward to the opportunity to respond to the Court.”

“This system of differentiated dress and grooming standards have been affirmed by courts and does not inhibit equal access to educational opportunities under Title IX,” the district said. “The rules are included in the student handbook each year and are similar to the codes of approximately half of the public school districts in Texas.”

In a letter sent to the district in August, the ACLU of Texas said it filed a grievance in 2019 on behalf of a Magnolia ISD parent who said her son was told to cut his hair or he’d be sent to in-school suspension. The letter also cited reports the ACLU of Texas received about students repeatedly being threatened with disciplinary action or being suspended for having long hair.

Danielle Miller, whose 11-year-old child is nonbinary and a plaintiff in the lawsuit against the district, said she received a phone call from her child’s school at the beginning of this school year and was told that her child would have to cut their hair. The Texas Tribune does not disclose children’s names for privacy reasons.

Miller said her child was “just in absolute devastation and tears” when she told them they would have to cut their hair.

“... Based on [my child’s] reaction and how harsh and traumatized they were, I realized that we weren’t going to be cutting [their] hair,” Miller said.

Miller’s child was placed in in-school suspension for nine days, she said. The suspension was postponed during a 60-day window to appeal the decision, which has almost run its course, Miller said.

Miller said her child has had long hair for a couple of years and that their hair length had never been a problem before.

“I have no idea what changed,” Miller said. “[The district is] not saying anything, they’re not responding to anybody in the community about it.”

The district said its administration and board of trustees have heard from a small group of parents about concerns over the dress code policy, and they “are currently in the process of considering parent grievances on this subject matter.”

According to Magnolia ISD’s 2021-22 student handbook, hair must “be no longer than the bottom of a dress shirt collar, bottom of the ear, and out of the eyes for male students.” Hair also cannot “be pinned up in any fashion” or “worn in a ponytail or bun for male students.”

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However, the ACLU argues many of the plaintiffs have worn long hair for years while enrolled in Magnolia ISD and have not faced any discipline until this year. Klosterboer said some school districts in Texas tend to rely on "old and outdated case law" as the basis for their dress code policies.

Another plaintiff, a 9-year-old Latino student identified in the lawsuit as A.C., wears long hair that he keeps in a ponytail and out of his face. His family was told on the first day of school this year that he would need to cut his hair or be sent to in-school suspension, the lawsuit says. His mother said many men in A.C.'s family wear long hair, including his dad and uncle. A.C. did not cut his hair and was placed in in-school suspension for five weeks, where he was separated from other students and wasn't able to attend his regular classes.

In September, he was sent to a "disciplinary alternative education program" outside of school for seven weeks, where he faced potentially harsher punishment. According to the lawsuit, students who don't comply with the school district's hair length policy and are sent to the alternative education program may be required to have a parent sit in class with them, go to before- or after-school detention, or lose their desk, among other measures.

This month, A.C.'s family unenrolled him from the district. However, the suit says his placement in an alternative education program has made it difficult for him to enroll in another district and he is now being home-schooled.

"Magnolia ISD has harshly punished my son and driven him out of school entirely because he is a boy with long hair. ... The district needs to stop harming our children," Azucena Laredo, A.C.'s mother, said in a statement.

In 2020, a federal judge granted two Black students from a Houston-area school district temporary relief after they were told they would have to cut their hair, which they wore in dreadlocks, to abide by district dress code policy. The case, which caught national attention, also landed on the radar of Texas lawmakers, who introduced their own version of the CROWN Act, legislation that would prohibit hair discrimination based on hair texture and protective styles that are usually associated with race. The legislation, House Bill 392, advanced out of committee during the regular session but was not taken up on the House floor for a vote.

Outside of Texas, federal courts have ruled in cases from Indiana and North Carolina that gender-specific dress codes could be linked to gender discrimination under federal law, according to the ACLU and the Texas Association of School Boards.

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Energy

Your Gasoline, Natural Gas And Electric Bills Are All Going Up This Winter

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By Marcy de Luna
Houston Chronicle

Energy prices are climbing across the board, squeezing households already paying more for gasoline, natural gas and electricity and threatening to slow economic recovery that depends on consumer spending.

Gasoline prices are running more than $1 higher than a year ago. Natural gas prices have more than doubled, surging by one-third in just the last month. Average retail electricity prices are up about 50 percent. With winter heating season yet to come, analysts are warning consumers to brace for even higher prices — particularly if colder-than-expected weather adds to demand for natural gas, heating oil and electricity.

The surge in energy costs is forcing difficult choices for many families as they juggle bills for rent, food and utilities. At Love Network, a Baytown a nonprofit that assists low-income people, the number of applicants seeking help paying utility bills has already jumped nearly 60 percent in October, to 550 in the first three weeks of the month from 350 in all of September.

“I’ve had clients say they have to choose between paying their light bill, water bill or rent,” said program manager Brittnay Joseph.

U.S. consumers were paying 25 percent more for energy in September than a year earlier, the Labor Department reported, and energy costs might be taking an even bigger bite out of Houston household budgets. Energy prices jumped 35 percent from a year earlier in August, the most recent regional data available, according to the Labor Department.

Ada Gonzales, 66, said she can barely cover the $900 a month rent for her small home near Baytown with the $10.50 an hour she earns at a bakery, and the prospects of paying even more for heat and electricity makes her worry that she might have to cut back on food, clothes or medicine. She estimates she is already paying $55 more a month on gasoline to get to work, which has forced her to cut back on items on her grocery list such as paper towels.

“I am having problems keeping a roof over my head let alone staying warm this winter,” Gonzales said. “I live on a small budget. It is a battle to survive.”

End of cheap energy?
The surge in prices could signal that an era of cheap energy is over, analysts said. The reasons are straightforward. Energy demand is soaring as the global economy emerges from the pandemic, but supplies are not keeping up.

Oil and gas companies, under pressure from shareholders to deliver higher profits, have cut spending on new oil and gas developments and ramped up production cautiously after two oil busts in five years. Investors, eyeing the energy transition, are reluctant to devote capital to oil and gas projects that could become obsolete before they pay off. Renewable

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sources such as wind and solar are advancing rapidly, but are not yet able to fill all the gaps.

“We need to transition to cleaner sources of energy,” said Patrick Jankowski, an economist at the Greater Houston Partnership, a business-financed economic development group. “But this illustrates how painful that transition is going to be both financially and physically if people find themselves in houses where they can't afford to turn the thermostat up and be as warm as they would like.”

The transition also could be painful for the broader economy, which depends on consumer spending for about 70 percent of economic activity. Economists often compare rising energy prices to taxes — unavoidable costs that reduce discretionary spending on goods and services from electronics to new cars to restaurant meals.

Moody’s Analytics, the economic research arm of the bond rating agency, estimates that every $1 increase in a barrel of crude oil drains $3 billion from the pockets of American consumers, and crude prices have risen about $40 a barrel to more than $80 over the past year. In the fourth quarter alone, consumers will spend $28 billion more on energy than they did during that same period in 2020, according to Moody’s.

“It is a big change from last winter,” said Chris Lafakis, an energy economist at Moody's Analytics. “It's going to drain consumer spending.”

Rising energy prices can also spark broader inflation as businesses pass along higher costs of transportation, production and materials to consumers, further eroding household’s spending power and potentially spurring the Federal Reserve to boost interest rates to slow the economy and ease price pressures, with implications for rate-sensitive industries such as housing and autos. Many of the recessions in the post-World War II era were caused by the Fed raising rates to squeeze inflation from the economy.

“Almost every household item that we have, from cereal to bathroom tissue, is made using energy sources,” said Ramanan Krishnamoorti, chief energy officer at the University of Houston. “That can quickly increase prices on the shelves.”

Pinched at the pump

Gasoline is one of the most visible indicators of rising energy costs. Gasoline prices, updated almost daily on gas station signs, have climbed to seven-year highs, up more than $1 a gallon over the past year to an average of $2.85 in Houston and $3.30 nationally, according to the fuel-price tracking service GasBuddy.

And they are likely to climb as global energy demand squeezes oil markets and pushes the price of crude, the major component of gasoline, even higher, said Patrick DeHaan, senior petroleum analyst at GasBuddy. Adding to the pressure are looming natural gas shortages in Europe and Asia, which are leading power plants, factories and other industrial customers to switch to coal and petroleum fuels, increasing demand and prices.

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DeHaan said there are too many variables — including how long OPEC and its allies will restrict production — to forecast how high gasoline prices might go. But, he added, "We're especially susceptible right now to any supply disruptions because oil demand is very strong. I'm pessimistic about U.S. gasoline prices.

Aaron Armstrong, a junior studying accounting at Prairie View A&M, estimates his spending on gasoline to commute to a part-time job at a Kohl's department store has risen 20 percent to about $60 per month, making a tight budget even tighter. With higher energy costs eating into the earnings he uses to help cover college expenses and rent, he worries he'll have to cut spending on books or even groceries.

Armstrong said he is looking to work more hours to help make ends meet, but that presents another problem.

"I'll have to spend more money on gas," Armstrong said.

The other gas

For much of the past few years, natural gas, a byproduct of oil drilling, was so cheap that it was more economical for producers to just burn the gas away than pay the costs of transporting it.

Those days are gone. The spot market price for natural gas, which spent most of last year below, $2 per million British thermal units, has soared above $5 per million Btus and is projected to average nearly $6 over the next few months, according to Energy Departments. U.S. households are forecast to spend 30 percent more on natural gas this winter compared to last year's heating costs, the Energy Department said.

Several factors have contributed to dramatic turnaround in prices. Global demand is strong and growing, not only because of the economic recovery, but also because nations are shifting power generation and industrial processes to cleaner-burning natural gas from coal. U.S. exports of liquefied natural gas tripled in the first six months of the year to an average of 9.6 billion cubic feet per day from 2.8 billion during the same period in 2020.

U.S. natural gas production, meanwhile, has stayed flat at about 91.5 billion cubic feet per day. Heading into the winter, natural gas stockpiles are running about 5 percent below average for this time of year.

Natural gas rates charged by the Houston utility CenterPoint on recent bills are nearly 30 percent higher than a year ago, according to filings with the Texas Railroad Commission, which regulates natural gas utilities. The rates are the pass-through costs of gas purchased by CenterPoint and separate from the utility's distribution fees. The cost of natural gas accounts for about half of monthly bills.

Power connections

Natural gas-fired power plants generate about half the electricity in Texas and the country, so power prices are inevitably tied to gas prices. And they, too, are rising.

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When Texas consumers get hit with higher electricity prices will largely depend on when their retail contracts end, but prices advertised on the state's electricity shopping website Power to Choose are up 50 percent to an average of 12 cents per kilowatt hour from about 8 cents a year ago, according to Paul Paras, co-founder of the Houston electricity shopping service Real Simple Energy

In addition, Texas electric utilities received approval from regulators to increase their distribution fees by a penny per kilowatt hour as of Sept. 1. That would add $15 a month to the bill of a household using 1,500 kilowatt hours.

Houston resident Eric Oliver, a 24-year-old mental health technician, estimates he spends about $180 a month for gasoline and $155 per month on utilities for his two-bedroom apartment. With his energy bills increasing, Oliver said he'll have to reduce other spending, like going out to a restaurant or the movies, and try to cut back driving, except to go to work.

"I am in my first apartment and this is my first time paying my own bills," he said. "This affects how I live my life. Things will be tight budget wise."

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Texas Power Plants Must Make 'Best Efforts' To Fix Problems That Led To Electric Grid Failure
Dallas Morning News

Operators of power plants and transmission lines that are part of the Texas electric grid have until Dec. 1 to make their "best efforts" to fix known problems that led to failures during last February's deadly freeze and to implement decade-old winterization recommendations that state regulators largely disregarded until this year.

That's the crux of new rules approved Thursday by the Texas Public Utility Commission — rules that the agency says will boost the grid's resiliency heading into winter, which starts in about eight weeks.

Under the rules, electric companies will be required to document that they have taken certain winterization measures — but they won't be penalized if they suffer weather-related failures or outages.

Still, members of the utility commission called the new rules a step toward greater oversight, because Texas previously had no winterization requirements. They also said "more robust and year-round preparation standards" are being developed — in conjunction with a comprehensive state weather study — although those standards won't be in place anytime soon.

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The rules approved Thursday are "operational standards to be ready for this winter," said Peter Lake, chairman of the utility commission. They'll ensure that "the physical resiliency of our grid is vastly improved this winter over last winter."

But not everyone sees it that way.

"Really, at the end of the day, it just feels like they are telling operators — 'Go out and do your best,'" said Adrian Shelley with the watchdog group Public Citizen. "You would hope that (plant operators and distribution companies) were already doing their best."

Meanwhile, there's a large potential hole in the effort to get the state's power grid ready for this winter that is beyond the Public Utility Commission's purview.

The Texas Railroad Commission, which regulates the natural gas industry, has yet to put in place any new winterization mandates for wellheads and pipelines, and it also is considering enacting a rule that would allow their operators to opt out of having them designated as "critical infrastructure" within the electricity supply chain that must winterize — simply by paying a $150 application fee.

The railroad commission is taking public comment on its proposed critical-infrastructure rule until Nov. 1, with final adoption expected by Dec. 1. But a committee of state lawmakers recently excoriated the agency for it, so the rule's fate appears to be up in the air.

"You sound like you missed the urgency message" to safeguard the grid, state Sen. John Whitmire, D-Houston, told Wei Wang, executive director of the railroad commission, during a hearing three weeks ago. "That is unsatisfactory. You have unified this body" in anger at the agency.

"This is the Achilles heel right now" in grid preparations, state Sen. Lois Kolkhorst, R-Brenham, said during the same hearing. Natural gas suppliers "were as much of the problem as everything else" during the February calamity.

A lack of consistent natural gas supply for gas-fueled power plants was among the top causes of the widespread and lengthy power outages during February's massive failure of the state's electric grid, according to a preliminary report last month from the Federal Energy Regulatory Commission — coming in second behind a lack of weatherization at power plants of all types.

But the natural gas industry has been scrambling since that disaster to avoid blame and the potential for increased regulation, paying for a report issued in April that largely absolved it of responsibility.

At least 210 Texans died for reasons related to the severe winter freeze in February — when the power grid faltered just when needed most — and property damage has been estimated at more than $200 billion.

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Under the rules for this winter approved Thursday by the Public Utility Commission, operators of power plants and transmission lines have the ability to assert a "good cause exception" to certain of the new winterization requirements — meaning they essentially can apply to opt out.

In most cases, however, the exceptions granted to them would be temporary, and they would have to provide documentation of specific causes for their noncompliance and a schedule to come into compliance. Regulators also would have to sign off on the exceptions.

Overall, the winterization measures that power plants and transmission companies now must take — or at least make their best efforts to put in place — are largely those that were recommended in two reports from nearly 10 years ago, after a winter storm in 2011 caused widespread power outages on the Texas grid.

Those decade-old recommendations have never before been made into requirements, either by Texas lawmakers or state regulators. They include such things as heat tracing to protect pipes from the cold, insulation of critical parts and installation of wind breaks or enclosures for cold-sensitive equipment and sensors, as well as efforts to ensure "onsite fuel security."

The "highest-ranking representative, official, or officer" with authority over the particular plant or transmission facility also will have to provide a notarized statement that the actions have been taken. In addition, the operator of the state's power grid — the Electric Reliability Council of Texas — has the authority to inspect all facilities with 48 hours' notice.

Some power plant operators say they haven't been waiting for the new rules to get their facilities ready for the upcoming winter.

"We're voluntarily hardening our power generation fleet to withstand a once-in-a-100-year event like (the February winter storms), and we're going beyond the 2011 NERC recommendations," said Vistra Corp. spokeswoman Meranda Cohn, referring to the report by the North American Electric Reliability Corp.

Still, Public Citizen's Shelley called the new rules weak and said he's concerned the grid overall remains extremely vulnerable.

The new rules are "better than nothing," he said. "But if we have another storm at the same intensity as (the one in February), then I think people should be very concerned."

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Business/Economy

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Pandemic Habits Show Up In Deloitte Survey Of Dallas-Fort Worth Holiday Shoppers

By Maria Halkias
Dallas Morning News

Dallas-Fort Worth residents have started their holiday shopping earlier and are worried about online orders arriving on time.

The pandemic overhang has sealed some shopping habits while other patterns were temporary, according to results of a Deloitte survey of D-FW shoppers released on Friday.

The survey results track some popular themes of the stay-at-home economy that dominated last year. Pet spending is down this year and shoppers say they plan to spend more on clothing than they did last year when few wardrobes needed updating just to stay home.

The Deloitte survey is the second one released this week that says people are less interested in shopping on Thanksgiving, Black Friday and Cyber Monday. Adobe Analytics' new forecast released Wednesday found the same trend.

Overall, 41% of respondents and 43% of low-income shoppers said they aren't shopping on the traditional big days, said Sam Loughry, Deloitte's retail leader in the Dallas office.

That's up significantly — by about 12 percentage points — from last year.

Last year, Black Friday was pretty dead in stores as the crowds stayed home due to the pandemic and retailers accommodated them instead with deals online.

And this year, the lack of interest in the Black Friday and Cyber Monday may partly be because holiday shopping is starting earlier. About 63% said they're going to shop before Thanksgiving, even earlier than last year, due to supply chain worries, Loughry said.

Almost half of shoppers are anticipating out-of-stock items and believe the hardest-hit categories will be electronics (53%) and toys (37%).

But spending in D-FW is holding up, Loughry said. On average, local households said they will spend $1,586, or 7% higher than the national average of $1,463. Local residents plan to spend about 4% less than last year when they doubled down on items for the home, but the forecast is up 11% from 2019.

"Folks in D-FW said their financial situation has held steady more than the national average and they plan to spend more on gifts this year than last year," Loughry said. About 78% said their household finances are the same or better than last year vs. 68% a year ago.

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And online shopping habits have firmed up, he said. D-FW shoppers said they are planning to spend 60% of their holiday budgets online.

About 77% of D-FW shoppers say they continue to be motivated by free shipping and are willing to wait almost a week for a package to arrive. Almost a third (31%) said they will pay an average of about $6 for same-day delivery but won't pay for delivery times of 3 to 7 days.

About 30% of shoppers are planning to use the buy-online-and-pick-up-in-store option, about the same as last year and slightly down from 38% in 2019.

Maybe they've learned that they don't even have to get out of the car: 26% of shoppers plan to use curbside pickup, down slightly from 29% last year but well above 2019, when only 16% said they would use the service. More stores have adopted curbside pickup, and more shoppers tried it during the pandemic.

This year, Deloitte also asked the CEOs of 30 retail companies with annual sales of at least $1 billion to respond to a survey.

"They said there will be fewer promotions (discounts) and prices will be higher," Loughry said.

Sounds like another reason to just shop early and buy what's in stock.

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Immigration/Border Security

Texas Sen. Ted Cruz Files Bill To Send Migrants To Martha's Vineyard, Other Coastal Cities
By Benjamin Wermund
San Antonio Express News

U.S. Sen. Ted Cruz has filed a bill to establish ports of entry in Martha's Vineyard, Palo Alto, Calif., and other coastal cities, a bit of legislative trolling that the Texas Republican says is an effort to "alleviate the massive overload at the southern border by establishing new ports of entry in Democrat-led communities."

The bill — a messaging effort unlikely to go far in the Democratic-led Congress — would direct the Homeland Security Department to transfer migrants from Texas border towns to 13 new ports of entry, including Cambridge, Mass., home of Harvard University, and Rehoboth Beach, Del., a regular vacation spot for President Joe Biden.

"If Washington Democrats had to endure even a fraction of the suffering South Texas families, farmers, ranchers and small businesses have had to face, our nation's immigration laws would be enforced, the wall would be built and the Remain in Mexico

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policy would be reimplemented," said Cruz, a member of the Senate Judiciary Committee.

The bill is the latest example of Cruz and other Republicans seeking to keep the spotlight on the U.S.-Mexico border, where federal officials have posted unprecedented numbers of encounters with migrants for much of this year. Biden has said he is working to rebuild an immigration system left in shambles by former President Donald Trump, while Republicans say he refuses to take the issue seriously.

Democrats were quick to pan Cruz's bill. U.S. Rep. Bill Keating, a Massachusetts Democrat whose district includes Nantucket, another city that Cruz would target, called it a "lame political stunt."

"Why is it that whenever Ted Cruz is facing a crisis in Texas, his mind seems to wander to vacation destinations?" Keating tweeted. "First it was Cancún, now it's Nantucket and Martha's Vineyard."

Cruz drew national attention when he flew to Cancún, Mexico during the winter freeze that paralyzed the state last February.

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Transportation

Hundreds Of American Airlines Regional Flight Attendants Vote To Strike, But Walkout Still Distant
By Kyle Arnold
Dallas Morning News

Flight attendants at one of American Airlines' regional carriers voted unanimously to strike, setting up a showdown with the company over wages and benefits even though an actual walkout is still a distant possibility.

Piedmont employees represented by the Association of Flight Attendants have spent the last three years trying to negotiate a new contract with claims that starting flight attendants make less than $17,000 a year and 10-year veterans make only $28,000 a year.

The union said those talks stalled after the company offered a new contract with small pay increases and higher health premiums. Flight attendants would earn less under the proposed contract when pay and premiums are taken together, according to the union.

About 75% of the company's 350 flight attendants participated in the strike vote.

Piedmont Airlines, a wholly owned subsidiary of American Airlines, is based in Salisbury, Md., and is a key regional carrier that flies under the American Eagle flag.

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“We are already paid less than our counterparts at other regional carriers, and far less than mainline flight attendants doing the same work at the American Airlines Group,” said AFA Piedmont president Keturah Johnson in a statement.

Flight attendants and other airline workers are prohibited from striking by federal rules until they are given permission to do so by federal labor regulators. AFA members participated Thursday in informational pickets at Philadelphia International Airport.

It would still be months or longer before flight attendants at Piedmont could actually walk off the job and disrupt the company’s flight operations. Airline employees and unions are under complex federal rules and workers must get permission from the National Mediation Board before being allowed to strike.

To do that, the union would need to prove to the mediation board that negotiations are at an impasse. The board could call for a 30-day “cooling-off period” before leading to a strike deadline.

In a statement, Piedmont said it’s still working toward “getting a competitive contract.”

“We are in agreement our team members deserve the best contract and we are committed to delivering that to them,” Piedmont said in a statement. “We look forward to getting back to negotiations in November.”

“We’ve seen in the last few months how delicate the aviation system is, and how much it depends on every worker,” said AFA International president Sara Nelson in a statement. “Piedmont Flight Attendants want a fair deal, but if it takes a strike, we’ve got their backs across the industry.”

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Health Care

As Delta Wave Fades, Texas Children's Battles Fatigue - And A Troubling Chain Of Infections
By Nora Mishanec
Houston Chronicle

Isaiah Gonzalez grimaced as the nurse approached his hospital bed, his small hands bound with surgical tape to safeguard the tubes delivering a steady flow of antibodies to his bloodstream. He squeezed his pink-stained eyelids shut as the masked nurse put a thermometer in his armpit to check whether his skyhigh fever had fallen. He was thinking of monkeys.

“I want to go to the zoo,” the 3-year-old said, reaching for his mother as his face twisted in distress.

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It has taken all Isaiah's powers of imagination to escape the confines of his bed in the intensive care unit at Texas Children's Hospital. He is battling multisystem inflammatory syndrome in children, or MIS-C, a dangerous but poorly understood illness that arose with the coronavirus pandemic last year. Fevered and weak, the Bayview resident was hospitalized earlier this month as the inflammation attacked his heart, kidneys and blood vessels.

Hospitalizations like Isaiah's were relatively rare throughout the COVID-19 pandemic. But as the delta tsunami recedes, it has left in its wake a troubling chain of infections among children too young to be vaccinated — and a deepening exhaustion among the health workers caring for them. The uncertainty about the coming months is adding to their fatigue, in a region where vaccination rates remain far below the levels required to stamp out community spread.

"Our resilience is not unlimited," said Dr. Lara Shekerdemian, chief of critical care at Texas Children's and the physician overseeing Isaiah's treatment.

Shekerdemian and her staff are still reeling from the stress of the "surprise" summertime surge that sickened children at an alarming rate, inundating the five units devoted to intensive care at the nation's largest pediatric hospital. Soft-spoken but formidable, with a gentle English accent, she leaned against a nurses' station as she recalled recent months when patients waited in the hallways for an empty bed.

The hospital's intensive care units are no longer jammed with young coronavirus patients, but MIS-C presents a new challenge, even as the virus appears to be in retreat. Of the many mysteries of the pandemic, the rise of MIS-C — a rare but treatable syndrome that typically affects school-aged children weeks after a COVID exposure — may be the most puzzling for pediatricians. More than 5,200 American children have been diagnosed with MIS-C since it was first observed at the beginning of the pandemic; 46 have died.

"We never thought, 20 months ago, that it would be like this," said Shekerdemian.

The future of the pandemic, and how deeply it may affect the holiday season, depends, as ever, on the vagaries of viral mutation and human behavior. That's according to Catherine Troisi, an infectious disease epidemiologist at UTHealth School of Public Health who studied HIV/AIDS before shifting her focus to coronavirus last year.

"Is a new variant going to arrive that is more infectious than delta?" Troisi said.

The answer, for now, appears to be no. The waning delta variant, which sickened children far more than previous strains, is still out-competing all other mutations.

More critical, she said, is whether mandates and other efforts aimed at vaccine hold-outs — some 30 percent of eligible Americans — will curb case counts before families gather at Thanksgiving and the winter holidays. Troisi is monitoring the data for signs of hope,

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both as an epidemiologist and as a grandmother who wants to visit her grandchildren at Christmastime.

But vaccination rates among Texas teenagers remain stubbornly below 50 percent, even as many high schoolers return to their classrooms unmasked. That may be a worrying harbinger for what is to come when vaccines are approved for kids ages 5 to 11, Troisi said, as some parents remain hesitant despite public health messaging promoting the shots.

“A lot of it is in our control as a community,” she said.

While children suffered from severe COVID infections at a far lower rate than adults early on in the pandemic, the idea that kids like Isaiah are safe from the disease crumbled with the delta wave, blindsiding pediatric health care providers with an unprecedented crush of childhood cases. The persistence of MIS-C is compounding their anxiety about the coming months.

“We got a false sense of security,” said Nicole Leathers, an ICU nurse manager at Texas Children’s. “And then we had this delta variant followed by a bunch of MIS-C and we were like, ‘Oh wait, this is completely different.’”

When Gia Gonzalez, 19, fell ill with a mild case of COVID last month, she monitored her son Isaiah for signs of sickness; he never showed any, so she didn’t worry.

Then came the phone call every mother dreads.

On HoustonChronicle.com: New moms fight for their lives away from newborns, as Houston sees rise in pregnant COVID patients

She was finishing her shift at the Bayview Circle K convenience store where she works earlier this month when her mother called to say Isaiah was lethargic and running a high fever.

Gia rushed home to nurse her son through the night. He woke every few minutes to sip the diluted yellow Gatorade she put in his Spider-Man sippy cup. By morning, a vivid rash had bloomed across his eyes and cheeks. He was so weak he couldn’t move.

“It was scary,” Gia said. “He wouldn’t talk or eat.”

The listless boy in the bed bore no resemblance to the normally energetic 3-year-old Gia had raised: a shaggy-haired troublemaker who loved to jump on the bed and race around the backyard with his cousins. As Gia looked as her son, she felt fear and confusion. It had happened so fast.

Like the facial rash, the sudden onset of Isaiah’s symptoms is typical of the inflammatory syndrome, which can infect otherwise healthy children, even those who had no

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discernible signs of COVID. It usually begins two to three weeks after a COVID exposure.

When Isaiah became unresponsive the following afternoon, Gia called an ambulance. She packed a backpack of essentials, including the fraying Paw Patrol blanket that Isaiah carried everywhere. Paramedics transported them to the hospital, where he was admitted to the ICU.

Timing was on his side.

Had he fallen ill during the summer surge, he may have had to wait for a bed. At its peak in late August, nearly 100 children were hospitalized daily with COVID in the greater Houston area. Two months later, pediatric COVID hospitalizations have dropped by two-thirds. But those numbers do not capture the steady trickle of patients like Isaiah, who are nominally negative for the virus but suffering from its cruel after-effects.

Gia had never heard of MIS-C, so the doctors explained the diagnosis. They told her it is treatable with intravenous medicines to protect her son's heart, kidneys and other organs from lasting damage.

With braces taped to his hands to prevent the intravenous tubes from kinking, Isaiah barely slept their first night in the ICU. Gia lay awake beside him, their bodies fitting snugly in the child-sized hospital bed.

She is not the only one who has been losing sleep.

Even at a well-funded metroplitan hospital like Texas Children's, the relentless pace and erratic trajectory of the pandemic has left staffers fatigued and overworked. Leathers, the ICU nurse manager, said the experience has broken down the hierarchy between doctors and nurses and forced many to jettison the "brash, tough Navy Seal mentality" that used to predominate.

Leathers worked the pediatric ICU floors one recent Sunday, even though she wasn't on duty. It was a taxing shift. One patient died, another went into cardiac arrest. Before the pandemic, she might have brushed it off. But instead, Leathers called her manager to decompress.

"I cried the whole way home," Leathers said.

Isaiah was discharged from the ICU late Wednesday, but he is due back at the hospital for an echocardiogram in five days. The doctors must determine whether the inflammation has caused any lasting damage to his heart.

Gia hopes Isaiah recovers in time for his 4th birthday on Oct. 30. To celebrate, she is planning to take him trick-or-treating for Halloween. He will be dressed as Spider-Man.

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Mother and son are looking forward to resuming their regular trips to the zoo, where they made bi-weekly visits throughout the pandemic.

It’s been a while since they’ve seen the monkeys.

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# # #

Greg Abbott News

Wall Street Vs. Texas politicians: Could Their Tense Relationship Worsen Before It Gets Better?
By Max Abelson
Bloomberg

Outside San Antonio this month, a veteran of Texas politics got so upset about Wall Street's retreat from fossil fuels that he compared the oil industry's fight for funding to the civil rights struggle.

In Dallas, a hedge fund manager trading junk bonds on his iPhone lamented his upcoming move to the posh Highland Park neighborhood, fearing locals might brand him an outsider even though he relocated from New York years ago.

And at an Austin diner, a finance executive whose grandfather was governor hoped for compromise between Wall Street and the Lone Star State, but warned it may get worse before it gets better.

Welcome to the tense battle brewing between Big Finance and Texas. Just a few months ago, drawn by the promise of low taxes and light regulation, some of the largest banks and asset managers in the U.S. were ramping up their flight from the coasts.

Then Gov. Greg Abbott signed a law banning state investments in firms that cut ties to oil and gas and another blocking local governments from working with banks that limit their lending to gun companies. That halted business for some top municipal-bond underwriters.

JPMorgan Chase & Co., Bank of America Corp., Citigroup Inc. and Goldman Sachs Group Inc. have all stopped muni underwriting in the state, at least for now.

But what's happening in Texas isn't just about muni bonds or a Republican governor leaning to the hard right in a bid to win reelection next November. It's a broader conflict between a state that would be among the world's top economies if it were its own country and an industry whose leaders have begun to raise their voices on social issues from racial equity to climate change while pledging to consider stakeholders besides investors.

Interviews with more than a dozen bankers, traders and investors suggest that when Texas decides banks have gone too far, it presages a bigger struggle over corporate power and the reach of Wall Street's influence.

Bigger than munis
"This is much bigger than the municipal bond business," said Phil Gramm, a former Republican U.S. senator from Texas. "This is the beginning of telling Wall Street that if you're going to discriminate due to your fealty to special interest groups, you're going to have to pay for it."

Gramm helped write the law that allowed for the creation of Citigroup and other Wall Street giants, and later was vice chairman of UBS AG's investment bank. He prefers to use what he calls the language of the civil rights movement, comparing an oil driller's ability to borrow funds to the right to sit at segregated lunch counters: "Discrimination is discrimination."

Until recently, the finance industry's ties to Texas had never looked stronger.

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Goldman Sachs has been on the hunt for a new Dallas-area campus that could be its biggest in the U.S. outside Manhattan.

And Vanguard Group announced a new Dallas-Fort Worth office not too far from fresh space for hedge fund Canyon Partners.

Inside an Austin restaurant called Cisco's, where a wall of luminaries includes a photo of former Gov. Bill Clements, his grandson George Seay ate huevos rancheros with biscuits and gravy.

Seay, founder of investment firm Annandale Capital, said it was "a big, big move" when JPMorgan boss Jamie Dimon and other top executives said in 2019 they're redefining the purpose of corporations to benefit workers and communities, not just shareholders.

The way he sees it, things are coming to a head in Texas because corporations have "become woke" just as Abbott, who's running for a third term, is signaling to supporters that he's the biggest conservative in town.

Texas all but banned abortion this year and stopped transgender high school athletes from playing on teams that don't align with their birth certificate. When North Carolina passed a parallel bathroom bill five years ago, corporate boycotts helped pressure the state to abandon it.

"That's not going to work down here," Seay said last week.

Instead of one side getting its way on social issues, he said, executives and politicians will have to each make compromises. "You can be friends with someone who doesn't agree with you."

'We need the brains'
When Bobby Tudor moved to Texas decades ago, Goldman Sachs colleagues told him he was making a mistake. But then they gave him a hard time around bonus season because he got to keep so much more of it than colleagues in New York, where taxes are higher.

"My answer was: 'Move to Texas, dude,'" Tudor said.

Some of them did.

Tudor, who co-founded the energy-focused investment bank Tudor, Pickering, Holt & Co., said Texas didn't start this fight. Corporate leaders are "feeling compelled to speak out and take positions on all sorts of matters that aren't necessarily central to their business."

In an office that looks down on the Houston Ship Channel, he said people in Texas feel their "version of a great world isn't the same as Larry Fink's." He added that the Greater Houston Partnership, a group of business leaders he has helped run, supports the right of businesses to require vaccinations, something Abbott has tried to ban.

Asked about the tension, Abbott said "people and businesses vote with their feet, and month after month they are choosing to move to Texas." He cited the pull of "no corporate or personal income taxes, a predictable regulatory climate, and a young, growing, and skilled workforce."

The fight is already spreading past Texas.

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Last week, a panel in Louisiana delayed approving a $700 million state bond sale set to be underwritten by JPMorgan while the attorney general presses for information on the bank's gun policies. Dimon told Congress this year that his bank doesn't finance gun companies that sell military-style weapons to consumers.

Over the years, it's frustrated Dallas real estate investor and developer Lucy Billingsley to watch Texas pass socially conservative laws she can't support. Even so, she adores the state's pro-business environment, those low taxes and light regulation.

She wants finance firms to embrace that same calculus.

"Come engage and lead," she said. "We need the brains — and we need to make this a better place."

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Gubernatorial Hopeful Don Huffines Says His Texas Senate Loss Tainted By 'Election Irregularities'
By Robert T. Garrett
Dallas Morning News

GOP gubernatorial hopeful Don Huffines is alleging there were voter irregularities in his losing race against Democratic state Sen. Nathan Johnson of Dallas in 2018.

Johnson won by some 24,300 votes out of nearly 294,000 cast and at the time, Huffines conceded and tweeted a pledge that he would work for a smooth transition with Johnson.

Although Huffines in 2018 did not publicly suggest that Johnson's 8-point victory was tainted, his concession tweet has been deleted and he said last week that he believes he was "ripped off in '18 when I lost my election."

Election "fraud" has become a campaign issue for Republicans since former President Donald Trump called the 2020 presidential contest rigged, even after dozens of judges, some of whom he appointed, and his own Justice Department dismissed the allegation as baseless.

After the November 2018 midterms, "numerous Texans" came to Huffines with "concerns of election irregularities in Dallas County, including in SD 16," or Senate District 16, he recounted Thursday in a written statement to The Dallas Morning News.

A day earlier, Huffines claimed he'd been "ripped off" in the 2018 state Senate race at a gubernatorial candidate forum in Decatur.

Moderator Shelley Luther, the former Dallas hair salon owner who went to jail for refusing to shut down during the coronavirus pandemic, asked Huffines and fellow Republicans running for governor for their thoughts on "election integrity," early voting and mail-in ballots. Huffines cited his 2018 defeat as illustrating why the state needs a bigger agency to investigate vote fraud.

In 2018, through an election lawyer he didn't name, Huffines recounted that he relayed the allegations to Attorney General Ken Paxton's office. So did some of the other unnamed Texans who had shared their suspicions with him, Huffines said.

"Unfortunately, due to being heavily understaffed, the AG's office is just not able to sufficiently investigate everything that comes their way," he said in his statement to The News.

At Wednesday night's forum, which Gov. Greg Abbott declined to attend, Huffines said people can "dream on" if they think the attorney general's office has sufficient staff to be able to thoroughly investigate election irregularities.

"People have cheated in an election since there's ever been elections," Huffines said at the event, sponsored by a tea party-style group, Wise County Conservatives.

"I think the cavemen probably cheated each other," he said. "Republicans cheat. Democrats cheat. There's no question about that."

Huffines is proposing a new 500-person agency for anti-corruption and election-related probes.

"They're going to be familiar with every law, every election law," he told conservative activists in Wise County, speaking of the proposed agency.

"They're going to know where the software is, who owns the software, where the machines are. They're going to be in between the two parties. They are going to follow the ballots. Most important, you've got somebody that you can call when you know other people are cheating."

As of late Saturday, the plan was not mentioned in the issues section of his campaign website.

Nor did Huffines spokeswoman Hannah Sacia respond to queries about where in state government the "government corruption and election integrity division," as Huffines called it at the forum, would be located.

While Paxton has an election fraud unit, his budget request to the Legislature about a year ago does not specify how many people work in the office, which is apparently a part of his office's Special Prosecutions Division. In December, the Houston Chronicle reported that the office had 17 law enforcement sergeants and four prosecutors.

Last week, a Paxton spokesman did not respond to an email requesting the number of full-time employees who are investigating alleged voting irregularities.

"Expecting for the AG's office to investigate all potential fraud is simply unrealistic," Huffines said in his statement to The News.

Johnson, a lawyer who specializes in commercial litigation and bankruptcy in the Dallas office of the international law firm Holland & Knight, ran as a centrist Democrat. He criticized Huffines, a real estate developer, for veering too far right. "I can help you get your party back," Johnson told Republicans at the time.

Senate District 16, though recently changed by GOP map makers, stretched east from DFW International Airport to Rowlett, north to Addison and south to Uptown Dallas.

Told of Huffines' Wednesday remarks, Johnson late last week said, "I do recall that shortly after the election he expressed the opinion that there were some irregularities, hinting at fraud."

However, "at the time he did not, so far as I know, push the notion that absent the 'irregularities,' he would have won," Johnson said in a text message. "The notion is laughable, and I believe he knows that. Which makes any present suggestion to the contrary disingenuous political BS."

Sacia, the Huffines spokeswoman, did not respond to Johnson's remarks.

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As Texas Politics Become Nationalized, Gov. Greg Abbott Moves To Squash GOP Critics Outside Of State

By Gromer Jeffers Jr.
Dallas Morning News

The nationalization of Texas politics has created a challenge for Texas Gov. Greg Abbott, who's had to fend off criticism of his border security approach and endure former President Donald Trump's insistence on election audits.

Moderates and Democrats charge that Abbott has gone too far right with his conservative agenda. They decry his plan to finish Trump's border wall, deplore the state's new law that limits mail-in voting and denounce Texas' law that bans abortion after six weeks of pregnancy.

Gov. Greg Abbott is pushing back on accusations that he hasn't thrown enough military muscle into stopping a surge of migrants at the Texas-Mexico border. Abbott, shown at a Fort Worth press conference after signing a border-security funding bill into law in Fort Worth last month, said on Fox News' Tucker Carlson show late Thursday that Texas has 6,500 National Guard and state troopers on the border.

That's just a sample of the bounty of conservative legislation approved by the Legislature this year over four legislative sessions. Abbott also has banned vaccine mandates and passports.

But that isn't enough for some national conservative voices that influence conservative voters.

Ordinarily, what folks outside the state think about the Texas governor isn't of great concern. It's the view inside Texas that counts the most.

But Abbott is dueling with Florida Republican Ron DeSantis for the conservative title of America's governor. The person who fills that role could be a contender for a national ticket in 2024, depending on whether Trump makes another run for the White House.

More urgently, Republican activists are swayed by the coverage they see on conservative media networks. If the national media has negative perceptions of an elected leader or political candidate, it could result in a backlash at the polls.

"Between COVID and the border situation, local issues have become nationalized," said former Dallas County Republican Party Chairman Jonathan Neerman. "Border security is a very important issue to voters around the country, and they naturally focus on Texas because that's where the issues with migrants have been."

Former state Sen. Donald Huffines of Dallas and former Texas GOP Chairman Allen West of Garland are the leading challengers against Abbott in the 2022 Republican primary for governor. They have been pointed in their criticism of Abbott's record, including on border security issues.

Neerman doesn't put much stock in that criticism, countering that Abbott should be heavily favored to win his March primary contest. But he does add that national figures dabbling into Texas politics often have a distorted view.

"Whether it's election security or border security, this governor has done an awful lot," Neerman said. "And this legislative session showed that, but it's not going to satisfy people who don't live in the state."

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Tucker Carlson criticism

For the past several weeks Abbott's record on border security hasn't been satisfactory to popular Fox News host Tucker Carlson. Last month, Carlson, whose show is the highest-rated news program on cable television, began lambasting Abbott for not deploying enough personnel to interrupt a rising tide of unauthorized immigrants that Republicans blame on President Joe Biden's immigration policies.

Although Abbott has secured nearly $3 billion from the Legislature this year to significantly ramp up the state's border security effort, including a plan to put 2,500 Texas Military Department personnel there, some staunch conservatives are calling it too little, too late.

Even more galling to Abbott and his supporters, Carlson invited Huffines and West to appear a week apart on his prime-time show to discuss the governor's alleged failure to supply enough soldiers. That prompted a flurry of Abbott social media posts supportive of the soldiers. "Join me in thanking the Texas National Guard for their daily work to secure our border," Abbott tweeted on Sept. 22.

Secure in the need to respond, Abbott last Thursday appeared on Carlson's show. Interested parties waited for fireworks.

Abbott had been prepped for a tense exchange, but it didn't occur. Carlson asked the governor a couple of questions about border security. They bashed Biden's efforts.

"We now have 6,500 National Guard and DPS troopers on the border to help secure the border. And as we're talking right now, they are identifying locations on the border where they are laying down razor wire to secure all the possible crossings that these caravans may be coming to," Abbott told Carlson.

Abbott said the National Guard and Department of Public Safety were placing large metal shipping containers at places that "could be crossings" for migrant caravans sighted in Mexico. He said state officials have advised him that portions of his proposed state-built border wall will be erected by Dec. 31.

Carlson didn't challenge Abbott, and the short segment closed without fireworks.

The Trump factor

The Abbott/Carlson episode comes after Trump prodded Abbott to support a forensic audit of the 2020 Texas elections. Yes, the same elections that resulted in Trump's comfortable victory over Joe Biden in the Lone Star State's presidential contest.

Though it was difficult and perhaps unwise for Abbott to publicly engage with Trump, he'll probably make more appearances on national conservative shows, especially if designed to defend his name.

"This is part of the nationalization of state politics in Texas," said Jim Henson, director of the Texas Politics Project at the University of Texas at Austin. "It's very hard to ignore that kind of criticism because your base is plugged into those media outlets."

Henson said Republicans across the U.S., including those in Texas, are eager to appear on conservative networks. Frequent voters watch the shows on networks like Fox News.

"A lot of state officials, including in Texas, benefit from appearing on those shows because it's a great way to get their message out, and building some degree of a national profile is a bonus," Henson said. "But there's a downside to that. You can't guarantee the most well-known figures on those outlets are going to always be your friend, are going to always approve of what you do and are always going to be on your side."

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TX-SOS-22-0155-B-000178

In the contentious era of Trump, Republican voters are increasing connected to national themes. That's why Abbott and GOP lawmakers pushed a legislative agenda filled with issues familiar to folks across the country, including the new elections law, banning the teaching of critical race theory, curbing so-called social media censorship and regulating transgender athletes.

At a forum earlier this spring, several Republican candidates to replace the late Ron Wright in Congress touted their ability to get on national television. Jake Ellzey eventually won the race over Susan Wright, the Trump-backed candidate.

And it's not just Republicans who crave the national spotlight. Texas Democrats are swayed by progressive programming on networks such as MSNBC and CNN.

"You kind of make a deal with the devil and then you're kind of stuck with it," Henson said. "There's that dynamic in which there's a slant to the discussion and the coverage, and it can benefit you, but then you have to deal with it when it hurts you."

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Texas Legislature

With Grades Like These For Political Maps, Texas Won't Be Making The Honor Roll
By Ross Ramsey
Texas Tribune

Republican legislators in Texas and Democratic legislators in Illinois have something in common: When it comes to drawing new political maps, they don't play fair.

The Redistricting Report Card, a collaboration between the Princeton Electoral Innovation Lab and RepresentUS, gives the new Texas congressional map an F for partisan fairness, saying it's drawn for "significant Republican advantage."

The congressional map scored better on competitiveness, meriting a C. But it got another F for geographic features, with the graders saying it has a lot of non-compact districts and that more districts split counties than necessary. In this case, a C is "average for the category, could be better, but also could be worse," and an "F" is "poor for the category, could be much better."

With Republican majorities in both the House and the Senate, and Republicans in every single statewide office, it's fair to say Republicans are responsible for those results.

Democrats would never do that, right?

Turn your attention to the great state of Illinois. The Redistricting Report Card gives Illinois' new congressional maps an F in every category: partisan fairness, competitiveness and geographic features. Their governor is a Democrat, as are both houses of their Legislature. The state has 17 seats in its congressional delegation, and 14 of the districts are drawn to favor Democrats. Based on the results of the last presidential race, that ought to be more in the range of 10 Democrats and seven Republicans.

The two states illustrate the conflict of interest wired into their redistricting laws, which let the people who hold legislative seats draw the districts where they compete to keep their jobs and their party majorities.

It's designed for political majorities to continue their dominance and for incumbents in both parties to keep their powerful posts, and it shouldn't be a surprise when it works the way it's rigged to work.

Texas' new congressional map has more Democratic seats than the current map, if you're measuring districts according to their average margins of support for Democrats and Republicans.

Those gains didn't come from Republicans: Lawmakers, according to an analysis by FiveThirtyEight, cut the number of competitive districts — those with less than a 5-percentage-point advantage for either party — from six to just one. The other 37 districts are solidly Republican or Democratic.

Texas has 13 Democrats and 23 Republicans in its congressional delegation now; the new maps, which add two seats overall, have 13 districts where Joe Biden would have won in 2020 and 25 where Donald Trump would have won, according to Texas Legislative Council data.

If the 2020 presidential result is the measure, that delegation ought to have about 20 Republicans and 18 Democrats.

Texas lawmakers also drew maps for themselves, now signed into law by the governor and already the subject of litigation over the legality and fairness of the new districts. The report card gives the Texas House map a C for fairness and a C for geographic features, but an F for competitiveness. That's an indication that the maps were drawn, as much as possible, to favor one party or the other — not to set up general election fights either side might win. Overall, it still favors Republicans, but not to the extent the congressional map does.

The Texas Senate map also scored better than the state's congressional map for partisan fairness. But the project gave it F grades for both competitiveness and geographic features. It could be more competitive, in other words, and the districts could be a lot more compact.

If the maps hold — remember that they're being contested in federal court — they point to a lot of uncontested general elections for federal and state legislative seats. That moves the focus to the primaries, which can be competitive no matter which party has the upper hand.

Those are harder to rig.

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State News

Get Updates On The U.S. Supreme Court Hearings On Texas' Near-Total Abortion Ban
Texas Tribune

The U.S. Supreme Court will hear two high-profile legal challenges to Texas' near-total abortion ban that prohibits the procedure as early as six weeks, which is before many people know they are pregnant. The arguments are slated to begin around 9 a.m. Central time Monday.

Under Senate Bill 8, enforcement of the new restrictions is left to private citizens instead of state officials because it allows anyone to file lawsuits against people who perform or assist someone in getting an abortion. People or groups that are successfully sued can face penalties of at least $10,000. It's a restrictive law that, if upheld, ends abortion access for millions across the state. The most recent court ruling on the issue allowed the law to remain in effect while the law works its way through the appeals system.

The arguments the high court is hearing Monday, however, are not expected to be focused on the constitutionality of abortion. The first case, brought by the U.S. Department of Justice, is about whether the U.S. can file legal battles targeting Texas, judges and others to prevent people from being sued under the state's new abortion law. This could bring clarity to who can be sued in any attempt to challenge SB 8 from being enforced. In the second case, brought by abortion providers, the court will consider whether a state "can insulate from federal-court review a law that prohibits the exercise of a constitutional right" by offloading its enforcement to the general public.

But while the arguments in the cases brought Monday are narrow, the justices can ask any questions and ultimately issue any ruling they wish — which makes it hard to predict exactly what could happen. However, watchers of the court and legal experts agree a broad ruling is unlikely. It is also unlikely that a ruling will come Monday.

Listen to the proceedings live here, follow the coverage of The Texas Tribune's Reese Oxner below and check out our related coverage.

Read more coverage about the state's near-total abortion ban here:

- We annotated the provisions of Senate Bill 8 that outline the enforcement process, perhaps the most unusual aspect of the state's near-total ban.
- The law's unusual enforcement mechanism is leaving abortion providers across the state without a playbook to respond and few options to fight the restrictions in court.
- This new law is the latest, most devastating blow from lawmakers who have been on a warpath to steamroll abortion access for decades. Getting an abortion in Texas has become more difficult than anywhere else in the nation.
- While the law has widely been referred to a six-week ban, the reality is closer to two weeks. Calling it strictly a six-week ban fails to take into account the nuance in circumstances many people face when it comes to pregnancy.
- A Texas doctor from San Antonio is already facing two lawsuits for performing an abortion illegally under the state's new law. He announced that he performed the procedure in a Washington Post column, saying that he "wanted to make sure that Texas didn't get away with its bid to prevent this blatantly unconstitutional law from being tested."
- In addition to this Texas law, advocates on both sides are closely watching a highly anticipated Mississippi case heading to the U.S. Supreme Court that could overturn Roe v. Wade. If the court were to overturn Roe, however, it could lead "trigger laws" across 12 states — including Texas — that ban all abortions to go into effect.

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How Today's Near-Total Abortion Ban In Texas Was 20 Years In The Making.
By Kevin Reynolds
Texas Tribune

Here is a list of Texas laws since 2000 that restrict abortion access.

2000 – First parental notification law goes into effect

Doctors must notify a parent 48 hours before an abortion is performed on a child under the age of 18. Notification can be waived if a teen seeks permission from a judge for the procedure, known as "judicial bypass."

2003 – The "Women's Right to Know Act."

- All abortions after 16 weeks must take place in an outpatient surgery center or a hospital.
- Women must wait 24 hours before getting an abortion.
- Additions to the law come in 2011.

2005 – 24-week ban, more restrictions for teens

- All abortions banned after 24 weeks of pregnancy.
- Tightens previous parental notification law. Doctors must have court order or parental permission to perform an abortion on underage teens. A requirement that the required form must be notarized, was added in 2006.
- All abortions banned after 24 weeks of pregnancy.
- State funding provided to crisis pregnancy centers and other nonprofit organizations that counsel pregnant patients against having an abortion.

2011 – Sonogram law, taxpayer dollar restrictions

- Women are required to get a sonogram 24 hours before an abortion.
- A physician must display and describe the sonogram to the woman, including the dimensions and features of the embryo or fetus. Also, the physician must describe and make the heartbeat of the fetus audible so that the woman can hear if a heartbeat is present.
- Texas agencies can no longer use tax dollars to provide or "promote" abortions and they are forbidden from from contracting with facilities that provide abortion care.

2013 – More restrictions on doctors, facilities, patients, "medication" abortion

- Doctors performing an abortion must have admitting privileges at a hospital within 30 miles of the abortion facility.
- Abortion after 20 weeks post-fertilization is banned, unless a patient is at risk of death or the fetus has a severe medical problem.
- Doctors administering medication abortion must follow a state-mandated protocol.
- All abortion facilities must meet the standards of ambulatory surgical centers, even if a facility provides abortion only by administering pills to swallow.

2017 – Second-trimester abortions, restrictions on insurance coverage

- Texas banned the most-used procedure for second-trimester abortions, forcing doctors to either use experimental procedures or stop providing second-trimester abortions altogether. Abortion rights advocates challenged this law as an undue burden on the right to abortion, and a court agreed and stopped the law from going into effect.
- Texas bans insurers from including coverage for abortion in a comprehensive health insurance plan, requiring people to purchase separate coverage for abortion care.

2019 – Stricter rules on government partnerships, assistance

- Criminal penalties for abortion providers who do not provide medical treatment to a fetus if born after an abortion. This scenario is virtually impossible because all abortions are banned after 20 weeks and a fetus is not viable until 24 weeks.

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- Government entities prevented from entering partnerships or providing assistance to clinics that are affiliated with abortion providers, even if they do not provide abortion themselves. This cuts off vital support to communities who rely on these low-cost clinics for basic health care like birth control, gynecological exams, cancer screenings, diabetes testing and much more.

2021 – Texas Heartbeat Law

- Bans abortion as early as six weeks in pregnancy, when an embryo's cardiac activity is detected — before many people know they are pregnant.
- Also authorizes private individuals to file civil lawsuits to "enforce" the abortion ban. This allows anyone to sue the health care provider and seek a court order that would block the patient's abortion and prevent the provider from performing any abortion after approximately six weeks in pregnancy.

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Texas' New Abortion Restrictions Facing Biggest Legal Review Yet Monday At U.S. Supreme Court
By Morgan O'Hanlon
Dallas Morning News

The U.S. Supreme Court will soon make a decision that will put a more lasting end to the legal ping pong match playing out in the federal courts system over enforcement of the country's most restrictive abortion law.

For months, the U.S. Department of Justice has been battling Texas over a new law that outlaws abortion after about six weeks of pregnancy. A series of rulings, appeals and requests have been filed in federal courts across the country as the DOJ attempts to block enforcement as the battle plays out.

The injunction hearing Monday will settle the question of whether the law can be enforced for the time being. Although it's possible that the Supreme Court will weigh in on the constitutionality of the law, thus reexamining Roe v. Wade, it's widely expected that the court will set a later trial date. That would mean the future of abortion access across the country will more likely be decided in a case challenging Mississippi's abortion restrictions, in which arguments are set to begin on Dec. 1.

Currently, enforcement continues because the 5th Circuit Court of Appeals allowed it to resume, overriding a previous injunction placed on the law by a federal district judge in Travis County.

Because the injunction is stayed, lawsuits can be filed in the future against those who break the law while the injunction was active. So far only three lawsuits are known to have been filed under SB 8 — all against a San Antonio physician who publicized an illegal abortion he performed after SB 8 went into effect.

In federal courts, lawsuits including the DOJ case focus on getting an injunction on the law and challenging its constitutionality. The DOJ has argued an injunction is necessary because the Texas law is currently infringing upon what it says is a constitutional right to abortion. Additionally, it says the state's attempt to circumvent rule of law through an unusual enforcement mechanism sets a dangerous precedent.

Meanwhile, in Texas state courts, plaintiffs who provide women's healthcare have attempted to ward off litigation by seeking injunctive orders against the most likely enforcers bill: vocal anti abortion groups and individuals like Texas Right to Life.

The DOJ lawsuit isn't the only lawsuit filed to challenge the Senate Bill 8. More than a dozen lawsuits challenging the law have already been filed, with the one brought by President Joe Biden's Department of Justice currently carrying the most momentum.

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Legal action against SB 8
These are the SB 8 lawsuits you need to know about:

Filed by: U.S. Attorney General Merrick Garland challenged the constitutionality of SB 8.

Status: Injunction hearing set to begin November 1 to make a decision about the DOJ's request that the Supreme Court block enforcement of the law. Currently, the stay placed by the 5th Circuit is set to last at least until arguments in the case are heard, which could be weeks or months.

This case, filed in the Western District of Texas, claims the new law is unconstitutional under Supreme Court precedent and accuses Texas of undermining the rule of law by attempting to avoid judicial review.

Filed by: Planned Parenthood affiliates challenge to potential SB 8 enforcers.

Status: Injunction granted, court date set for April 2022. Stay halts proceedings until lifted.

This case filed in State District Court in Travis County attempts to block enforcement of SB 8 against three Planned Parenthood clinics in Texas and one of its physicians by Texas Right to Life and its collaborators. Although a stay has indefinitely postponed proceedings, the injunctive relief remains in effect and a court date still stands for April. A request to lift the stay has been denied by the Texas Supreme Court.

Filed by: Attorney Elizabeth Myers filed multiple on behalf of abortion providers, clinics, attorneys and abortion funds to challenge potential SB 8 enforcers.

Status: Stayed; indefinitely postponed.

Temporary restraining orders protecting her clients from being sued by Texas Right to Life and its collaborators have expired. A panel of five Texas judges put a stay on these cases, indefinitely postponing proceedings in these cases, including a hearing originally scheduled for Oct. 4 in which Myers sought an extension of injunctive relief for her clients. A request to lift the stay has been denied by the Texas Supreme Court.

Filed by: Whole Woman's Health, Planned Parenthood and other abortion clinics and providers to challenge the constitutionality of SB 8.

Status: Emergency injunctive relief denied, arguments to be heard in December.

The first federal lawsuit against the new abortion law was blocked by the 5th Circuit Court of Appeals. Arguments in this case will begin in December.

Lawsuit filed under SB 8 provisions
Filed by: Two out-of-state former lawyers and an anti-abortion rights Houston resident.

Status: The cases in State District Court haven't had hearings set.

Former attorneys in Arkansas and Illinois filed lawsuits in September against Dr. Alan Braid, who in a Washington Post opinion column became the first Texas abortion provider to publicly reveal he violated the law that took effect on Sept. 1, The Associated Press reported. Shortly after those lawsuits were filed, Houston resident became the first anti-abortion rights party to filed a lawsuit under the law.

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Business/Economy

Texas Triangle Is Key To Economic Growth, But Brings Big Changes
By Chris Tomlinson
Houston Chronicle

The biggest Texas industries in 1960 were agriculture and oil and natural gas, and most of the state's 9 million residents lived in small towns outside Houston, San Antonio, Dallas-Fort Worth and Austin.

Politics were simpler then, with conservative Democrats holding almost every elected office. Whites made up the majority and enforced strict segregation and systemic oppression of people of color. Any white man who showed up at a state university with tuition could attend, though few jobs required more than a high school diploma and the right flesh tone.

The biggest challenges businesses faced were the weather and a lack of good farm-to-market roads. Chambers of commerce demanded low taxes, limited government and lax labor laws, which the Legislature happily delivered.

Tomlinson: Texas must change beef culture to fight climate change

Too many Texans long for those days of yore, and some politicians are trying their best to resurrect them. But the authors of a new book, "The Texas Triangle: An Emerging Power in the Global Economy," explain why those days are gone and how continued success requires new thinking.

I've been pounding on this theme for years, but the book's authors are far more qualified to make the case. They include Henry Cisneros, former San Antonio mayor and secretary of housing and urban development during the Clinton administration; David Hendricks, former San Antonio Express-News business editor; J.H. Cullum Clark, director of the Bush Institute-SMU Economic Growth Initiative; and William Fulton, director of the Kinder Institute for Urban Research.

Texas A&M Press gave them 300 pages to explore how far Texas has come, its current strengths and weaknesses, and where we might go next.

The Texas Triangle is drawn on the interstates between San Antonio, Houston and Dallas-Fort Worth. More than 80 percent of Texas's population growth has been within the triangle since 1960, and 60 percent of Texans live and work within it today.

The triangle's economic activity totaled $1.3 trillion in 2018, producing more than Mexico, Indonesia or Saudi Arabia. It accounted for 6.9 percent of U.S. gross domestic product.

Nearly 60 percent of the state's population is non-Anglo, and soon Hispanics will be the largest ethnic group. Finance, insurance and real estate are Texas's most lucrative fields, followed by manufacturing. Oil and gas comes in third, with business services fourth and government fifth.

"Texas is more closely linked to the world economy, and through a more complex web of connections, than ever before," the authors write. "Now that Texas is an urban state, it must shed its own self-image as rural. Texas's enormous growth requires new thinking about policies and priorities."

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Ask any business owner, and he or she will tell you the most critical need is a trained workforce. The authors demonstrate with detailed statistics how the state fails to provide Texas kids with the education they need to meet the economy's needs.

The triangle's rapid growth also has failed to expand access to health care. Housing in metropolitan areas is becoming unaffordable, taking up 30 percent of the average workers' pay. Texas' urban freeways are among the most congested in the nation, and our public transportation system is a joke.

When we don't provide Texans with a good education, access to health care, secure housing or a convenient way to get to work, we set them up to fail.

"The question is whether these populations of color will be undereducated, underperforming, underproductive, and alienated, leading to an impoverished and contentious future for all citizens," the authors write.

"The Texas Triangle" is not another liberal screed, though. The authors recognize that our success comes from a culture that limits government, keeps taxes low and encourages innovation. In addition to calling on Republicans to acknowledge the growing need for public services, the authors urge Democrats not to turn Texas into another California.

Looking ahead, demographers predict that San Antonio, Houston, Austin and Dallas-Fort Worth will grow into each other. By 2050, the triangle will grow 148 percent to include 35.3 million people — about two-thirds of all Texans. The Texas Triangle will look more like today's Tokyo-Osaka-Kobe corridor than the cotton fields of the past.

The question is whether Texas' larger, denser population will enjoy a decent standard of living.

"The Texas Triangle economy will be larger, but how much larger will depend on how well the urban education system prepares students," the authors said.

Will Texas schools begin computer science in elementary school? Will children learn calculus in high school to study artificial intelligence in college? How many languages will Texans speak?

Texas' economy will require different skills and new industries in big cities. For a brighter future, we need to reimagine Texas' identity and culture before innovation leaves us behind.

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Why Black Friday And Cyber Monday Deals Won't Be The Same In 2021
By Amanda Drane
Houston Chronicle

Black Friday and Cyber Monday deals won't be as sweet as they normally are, and they may not be worth waiting for given the way some items are selling out.

I'm wont to say good riddance to the days of rowdy shoppers fighting over TVs on Thanksgiving. Still, the markdowns that drove them to such madness may be missed as retailers rein in Black Friday offerings amid surging demand, tight supplies and labor shortages that are driving up their cost of doing business.

Before the pandemic economy spurred demand and hampered supply, retailers boasted vast inventories that were expensive to store. It was cost-effective to mark them down, lure people in and purge supplies. Retailers no longer have that problem.

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“Demand is there,” said Venky Shankar, research director at the Center for Retailing Studies. “They don’t have to stimulate demand with discounts.”

And gone are the lavish inventories.

Online out-of-stock messages are up 172 percent over this time last year and up 360 percent compared with 2019, according to Adobe Analytics, noting that customers are encountering so-called “stockouts” most often with clothes, sporting goods, baby products and electronics.

“It’ll get tighter and tighter towards Christmas,” Shankar said. “People are also panicking and buying online, buying a lot of things and making the shortages more acute ahead of time.”

Holiday decorations, too, are in tight supply. Retailers ranging from large chains such as Party City to local retailers like Kuhl-Linscomb are struggling to get holiday decorations they’ve ordered on shelves — even after six months of waiting. Congested ports are the main obstacle.

Normally inventories are at their highest heading into November and prices fall by around 5 percent heading into the shopping season, Adobe said. Then, of course, prices drop to their lowest point after retailers roll out holiday deals. But instead of prices declining ahead of holiday deals, they are up 3 percent.

Compounding the higher starting price point, retailers won’t mark prices down as much as they did in pre-pandemic years. Adobe predicts that consumers will pay about 9 percent more on Cyber Monday, with markdowns landing between 5 and 25 percent, down from the typical 10 to 30 percent.

Still, retailers will need to offer some discounts to meet consumer expectations and stay competitive.

“They have to give some discounts because people are used to getting discounts,” Shankar said.

Retailers are already rolling them out to meet the demands of people shopping earlier. About 65 percent of Houstonians plan to shop before Thanksgiving to help make sure that the item they want is in stock and that they have enough time to ship it, according to a survey from consultancy Deloitte.

You’ll still find the best deals Thanksgiving week, analysts predict. That’s if supplies last.

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Health Care

COVID-19 Breakthrough Infections May Be More Serious In Communities Of Color, Researchers Warn
By Alejandra Canales
Dallas Morning News

While fully vaccinated people are a small percentage of those who contract COVID-19, some researchers are worried that racial disparities may persist among so-called “breakthrough” infections.

One major challenge, these experts said, is that many state and county health departments do not track breakthrough cases. And even when they track breakthrough cases, they often don’t track those cases by race.

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Last month, in an opinion piece in The Washington Post, two researchers at Boston University and a prominent New York physician warned that the lack of data could hinder public health officials' efforts to combat the coronavirus, particularly in communities of color that have been hit hardest by COVID-19.

"That there would be potential racial and ethnic inequities in COVID-19 outcomes among vaccinated people should be no surprise," wrote Dr. Oni Blackstock, a New York HIV physician and founder of Health Justice; and Alexandra Skinner, a research fellow, and Julia Raifman, an assistant professor, both at Boston University School of Public Health.

"Historical and present-day policies, driven by structural racism, have created striking racial and ethnic inequities in wealth, health, education, work, housing and medical care," they wrote in The Washington Post.

"Non-white Americans are thus more likely to hold front-line jobs, less likely to be able to work from home and more likely to live in crowded homes or neighborhoods," they wrote. "These factors increase the risk of coronavirus exposure regardless of vaccination status."

All of the COVID-19 vaccines have proven to be extremely effective at preventing severe illness and deaths. Still, breakthrough infections have gained the spotlight with high profile cases like that of Dallas Mayor Eric Johnson, 46, who said last week that while he is fully vaccinated, he has tested positive for COVID-19.

Last month, Colin Powell, the nation's first Black secretary of state, died at 84 from COVID-19 complications. His age and underlying health conditions may have put him at higher risk.

Public health experts say it's important to monitor data to help identify which populations may continue to be more vulnerable to infection.

"COVID hit [our society] in the context of structural racism and structural inequities in the United States due to historical policies and modern day policies," said Raifman.

"This is a very important time for policies to counter structural inequities as well as to counter the immediate effects of the COVID pandemic," she said.

Julia Raifman, an assistant professor in the Department of Health Policy and Management at the Boston University School of Public Health
Raifman poses for a photo on October 1, 2020. She has developed a database stockpiling all states' policies for dealing with COVID. It has become a go-to source for journalists (including the Wall Street Journal), scholars (25 publications have cited the database), and state lawmakers.

Cecilia Tomori, the director of global public health and community health at Johns Hopkins School of Nursing, agreed that it's important to monitor disparities. "The equity dimension consistently gets overlooked until people point out that it needs to be tracked," she said.

At the national level, the Centers for Disease Control and Prevention transitioned in May to tracking only breakthrough infections that resulted in hospitalization or death.

New CDC data compiled from 14 states and two cities shows how often coronavirus infections occur in vaccinated and unvaccinated people. People who were not vaccinated were six times more likely to catch COVID-19 than people who were vaccinated. These unvaccinated people were then 12 times more likely to die from COVID-19 than those who had been vaccinated.

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The federal data separates breakthrough infections and their outcomes by age group. Older people who were vaccinated were much less likely to die from a breakthrough infection than their unvaccinated peers. But age is a big risk factor for dying from a breakthrough infection, according to reporting from the New York Times.

Dallas County is one of the few in Texas tracking coronavirus infections in people who have been fully vaccinated, and that data is broken down by race.

“We definitely want to see if there are any particular subgroups that may have more breakthrough [infections] for whatever reason,” said Dr. Philip Huang, director of Dallas County Health and Human Services.

As of mid-October, a cumulative total of 11,300 people have tested positive for COVID-19 despite being fully vaccinated, according to data from Dallas County Health and Human Services. Of those, 528 people who were fully vaccinated had to be hospitalized, and 123 people who had breakthrough infections died.

Huang emphasized that although the number of breakthrough infections sounds large, it represents a very small proportion — only 2.8% — of total cases in Dallas County. The county has had a total of 402,023 COVID-19 cases.

He said county health officials are also monitoring any differences on the basis of which vaccine an individual received.

Raifman said that tracking the data and looking for any disparities is the best way to manage these disparities. When made aware of Dallas County’s data, Raifman said that, to fully evaluate any disparities, the county would need more data on hospitalizations and deaths resulting from breakthrough infections, broken down by race, ethnicity and age.

Having good data on what’s happening with breakthrough cases, Raifman said, is the best way to reduce deaths, keep people in the workforce and keep kids growing up with their parents. This data helps public health officials determine when different population segments would benefit from more vaccines and plan strategies to deliver those doses.

Raifman and many other researchers have documented throughout the pandemic how inequities made people of color more vulnerable to worse COVID-19 outcomes. For example, people of color often face higher occupational exposure to COVID-19.

A study published in the Journal of the American Medical Association: Internal Medicine looked at excess deaths of Latinos in California from March to August of last year. (Excess deaths are the difference between the observed number of deaths in a certain period and expected numbers of deaths in the same period.) The researchers showed that people who worked jobs like cooks and farmworkers had higher exposure to COVID-19 and the highest rates of excess mortality.

But the researchers did not see excess mortality among white health care professionals.

“We know that a lot of what was driving those disparities in the first year was simply access to the means to protect yourself from infection,” Alicia Riley, an assistant professor of sociology at the University of California, Santa Cruz, told The Dallas Morning News. Riley was one of the authors of the JAMA Internal Medicine study.

“Personal protective equipment and N-95 masks helped protect the people with the most privilege, despite their workplace exposure,” she said.

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In June, the Occupational Safety and Health Administration finally released an emergency workplace safety rule requiring that health care employers implement an infection-control plan to protect their employees from COVID-19. But, the initial draft of the rule submitted to the White House had been intended to cover all workers, according to reporting from Bloomberg Law.

Blackstock, the New York physician, worries that if structural factors that put people at risk for exposure to COVID-19 haven't changed, these trends on the disproportionate impact of COVID-19 on people of color could continue.

Other research during the pandemic has also shown that people of color were more vulnerable to severe disease due to higher rates of underlying medical conditions, Raifman said. And people of color who get COVID-19 may have lower quality health care compared to that of white people, she said.

"Policies that control the pandemic are really important for reducing racial disparities," Raifman said. "When we don't have policies in place to control the pandemic, it really exacerbates disparities."

Vaccinated people can still transmit the virus to other people, Huang said. That's the reason that the county health department recommends that vaccinated people should also still wear masks when indoors and in a crowded setting, he said.

"Even if any one individual's risk is pretty low, at a population level, [the risk] adds up," Justin Feldman, a fellow at the François-Xavier Bagnoud Center for Health and Human Rights at Harvard University, told The News.

Writing in Slate in September, Feldman argued that "there are three main reasons I think we need to take breakthrough infections seriously. First, vaccinated people can still transmit the virus to people who are unvaccinated, including children who are not yet eligible for the vaccine.

"Second, there are people whose health conditions put them at high risk of hospitalization and death even if they are vaccinated. This includes people with certain immunocompromised conditions who may not respond as well to vaccines, even with a booster shot," he wrote.

"Third, we are still learning about the risks of long COVID among the vaccinated. Even if a small percentage of breakthrough infections lead to persisting symptoms, that adds up to a large number of people when infections are widespread," he wrote.

A CDC study published last month showed that 70% of vaccinated people incarcerated in a federal prison in Texas tested positive for COVID-19. "That is an exceptional circumstance, because these are extremely bad conditions, so the exposure levels are very high," Feldman said. "But to me, that reinforces the main point of my Slate piece: that if exposure is high, breakthrough infections can be a serious problem."

"If we continue to allow a lot of deaths to happen and a lot of [community] spread to happen," he said, "we're going to have a lot of people who are vaccinated dying of COVID — even if it's a small percentage [of overall deaths]."

Feldman told The News that officials should be trying to prevent breakthrough infections through non-pharmaceutical interventions, including mask requirements, improved workplace protections and paid sick leave for quarantine.

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"All of the [COVID-19] mitigation strategies are stronger together, and policies effectively scale up [these] strategies," Raifman said. "If we just say we recommend them, then what ends up happening is that the highest-income places have great ventilation and great rapid testing programs and great vaccine coverage.

"I think unfortunately when there's really widespread community transmission, breakthrough cases are not rare," she said. "We have to realize that controlling community transmission is good for everyone."

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Criminal Justice

Austin Voters To Consider Police Staffing Proposition, A Potential Second Rebuke To The City's Leftward Policy Shift
By Brad Johnson
The Texan

Austin voters face another public safety-focused ballot proposition and referendum on the direction of their city, its policies, and those who've approved them. On Tuesday, Proposition A will be featured on Austin's November general election ballot.
The items within Proposition A are:

- Mandate a minimum staffing level within the Austin Police Department (APD) of two officers per 1,000 residents
- Establish a minimum 35 percent community response time standard
- Require 40 additional hours of training
- Oblige the mayor, city council, and city staff to enroll in the Citizens Police Academy
- Facilitate minority officer hiring through foreign language proficiency metrics

Austin has more than surpassed its historical homicide total, currently at 75 with two months remaining. Through September, APD crime stats show an 88 percent increase in murders, a 25 percent increase in sexual assault, a 38 percent increase in arson incidents, and a 112 percent increase in the theft of vehicle parts.

Overall, however, crime is slightly down from 2020 which itself saw a spike in crime from 2019. Crimes against persons are down 5 percent and crimes against property are down 9 percent compared to 2020.

All the while, APD is reeling from an attrition crisis within its ranks, losing 15 to 22 officers per month. APD is down over 300 officers from its staffing level two years ago. Another 150 to 200 officers are likely to leave in January next year before changes to the retirement system kick in.

The causes for attrition are a mix of internal and external leadership factors compounded by the staffing shortage. Patrol shifts most days are not fully staffed and delayed cadet classes by the council have failed to fill the void left by departing officers.

This proposition is another installation of the broader clash between the immovable object of Austin's progressive policies and the unstoppable force of a burgeoning backlash of voters across parties.

And something's got to give.

Since about 2018, the Austin City Council has been united behind sea change policies that pulled the city even further left than its traditional locus. Lighter bail policies, the recission of a public camping ban, and a massive

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cut to the police department budget were the signature accomplishments of a progressive cadre of organizations with growing influence.

To comply with a new state law setting punishments for large cities that cut funding to their police departments, the city council voted to restore most of the funding cut in 2020 — achieved mainly by placing the 911 call center and forensic lab back under the APD umbrella. But the 150 positions cut from authorization were not restored, and the current roughly 200 vacancies are on top of that cluster nixed last year.

But those policies have spurred a formidable recoil from conservatives and moderates from both parties. The homeless camping ban was restored in a lopsided May election and the same group behind that effort, Save Austin Now, is also behind Proposition A.

The group turned in over 30,000 signatures of registered voters to secure its place on the ballot.

Since then, a heated campaign has taken root with over a million dollars on both sides of the political football.

As of October 26, Save Austin Now had raised over $1 million from nearly 2,000 donors and the "No On Prop A" campaign had raised over $1 million from 165 donors.

A massive chunk, nearly half, for the campaign opposed to the proposition came from billionaire progressive benefactor George Soros' Open Society Policy Center.

The "no" side has the support of Mayor Steve Adler, all but one city council member, and a litany of progressive groups and figures.

The ranks of support, meanwhile, include the Austin Police Officers Association, Councilwoman Mackenzie Kelly, three former Austin mayors, and Governor Greg Abbott.

One group that's been a focus of contention is the Austin Firefighters Association (AFA) which officially opposes Prop A, but only half of the organization's 1,200-member body voted in the internal election. Of that half, 57 percent opposed Prop A.

AFA President Bob Nicks has remained active in opposing Prop A on social media and in press statements, sparring frequently with Save Austin Now through the official union Twitter Account.

Locked in a political fight for the direction of the city, the two sides have each accused their opposites of misrepresenting the issue. In a debate last Thursday hosted by Talk 1370AM, anti-Prop A debaters claimed that Austin Police Chief Joseph Chacon is against the proposition. Chacon has said multiple times he is not taking a position on the issue, despite Adler saying publicly more than once that he was against it — including during the press conference announcing Chacon as the city's choice to head the department permanently.

Those opposed to Prop A have accused Save Austin Now of overselling the public safety threat caused by increasing trends of certain categories of crime, such as hyper-focusing on the murder rate rather than the overall crimes against persons. Compared with 2021's figures, overall crimes against persons in 2019 were about 700 incidents higher — close to on par with last year's total.

Most pointedly, Adler spent a large portion of his 2021 State of the City speech accusing the pro-Prop A push of being "right-wing misinformation."

Another feature has been the potential cost of Prop A should it pass. The city's official estimate places the first-year cost between $54 million and $120 million, with the range based on population projections. Save Austin

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Now pegs the estimate at $30 million to $35 million — or $100,000 per officer needed to reach the staffing minimum. They also contend it will likely be even lower because it will be next to impossible to hire the entire 300 to 350 officers needed to meet the minimum in one year.

The city's estimate also includes costs for one-time capital expenditures such as a new substation and training facility.

In the first year, either the city's low-end estimate or Save Austin Now's would amount to less than 5 percent of the city's general fund budget. Those opposed to Prop A contend its passage would require cuts for things like libraries and parks, but those two items in this year's budget amount to only 14 percent of the general fund.

Early voting for the election finished on Friday last week and it lagged substantially behind May's early voting turnout despite having three more days of ballot casting. That indicates voters have been less enthusiastic to vote in this election than May's, but it's unclear which side may benefit. But even if Save Austin Now's side cannot replicate May's landslide in its entirety, that result presents ample slack before the scales tip the other way.

The anti-Prop A side is hoping not to replicate its lackadaisical effort against the camping ban reinstatement, and this time is far more organized and well-funded.

Ultimately, it is the voters of Austin who have the final say and on Tuesday they have a choice: ratify the city's efforts to "reimagine" its police department or deliver a second heavy blow in a year to the progressive movement driving Texas' capital city even further left.

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Brandon Daniel, Who Killed Austin Officer Jaime Padron, Found Dead In Texas Death Row Cell
By Tony Plohetski
Austin American Statesman

A software engineer sentenced to death in the 2012 fatal shooting of Austin police officer Jaime Padron was discovered dead in his cell on Texas death row, officials said Sunday.

Authorities are investigating how Brandon Daniel, 33, died, according to a statement from the Texas Department of Criminal Justice. However, officials said foul play does not appear to be the cause.

TDCJ spokesman Robert Hurst said that at 4:25 a.m. Saturday, a correctional officer at the Polunsky Unit in Livingston was doing security rounds when he found Daniel "unresponsive on his bunk. Officers entered the cell and determined that he was not breathing."

Medics arrived at the bunk a short time later, but Daniel was pronounced dead at 5:10 a.m., the statement said. As with all deaths of a person in prison not under a doctor's care, the Office of Inspector General is investigating and an autopsy will be performed.

Daniel shot and killed Padron on April 6, 2012, as the two struggled on the floor of a Wal-Mart near Interstate 35 and East Parmer Lane in North Austin. Padron, a Marine veteran and father of two girls, had been responding to complaints from the store's employees about a possibly intoxicated shoplifter.

Daniel was quickly arrested, and police found a magazine containing six hollow-point bullets in his pocket and $57 worth of food, alcohol and other store items in his backpack.

At downtown police headquarters, in a videotaped interview, Daniel told homicide detectives he had gone into the store with the intention to steal some vegetables but attempted to flee when he saw the police officer. At least three times, witnesses said, he had admitted, "I killed a cop."

Jurors deliberated for an hour before finding Daniel guilty of capital murder in February 2014, and they then needed just eight hours of discussion before sentencing the former software engineer to die.

The next year, Daniel sent state District Judge Brenda Kennedy a letter asking to waive his appeals.

“I want justice to be served, and I feel the punishment is appropriate for my crime,” he wrote. “We are both interested in saving the taxpayer’s money, the time of all involved and in sparing my family and the victim’s family any more angst than necessary. And finally, I would like my time in prison to be the least amount as possible.”

But Daniel’s appeals continued. Most recently, in 2018, the U.S. Supreme Court rejected his appeal without comment after Daniel’s attorneys argued that Kennedy had improperly communicated with jurors, among other claims.

It also said that his attorneys during trial acted deficiently by missing evidence that Daniel was autistic. The diagnosis could have explained what prosecutors called Daniel's lack of remorse and use of drugs and alcohol to self-medicate, giving jurors a reason to choose a sentence of life in prison instead of capital punishment, the appeal said.

No execution date had been set for Daniel.

A North Austin elementary school has been named in honor of Padron, who had been an Austin officer for three years but had worked for the San Angelo Police Department for 14 years.

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Opinion/Editorial

Will Declines In Community College Enrollment Widen Texas’ Skilled Labor Gap?
Dallas Morning News

It’s no secret that the pandemic has taken a toll on K-12 student achievement. But now another consequence of the virus is having an impact on post-high school education in Texas.

According to a recent report from the Texas Higher Education Coordinating Board, community college enrollment in Texas is now lower than enrollment at the state’s four-year universities — for the first time since the 1990s.

About 80,000 fewer students, roughly an 11% drop, enrolled at community colleges during the pandemic. That compares to a 2% enrollment increase at public universities, flat enrollment at independent universities and a 10% gain at institutions specializing in health care.

The decline in enrollment hit all regions of the state but was particularly eye-opening in the Upper Rio Grande, Central Texas and the Dallas-Fort Worth area, which posted double-digit declines of 15.3%, 14.8% and 14.3%, respectively. Since 2019, all but four public community and state colleges in Texas reported enrollment declines.

This enrollment drop at community colleges deserves the attention of policymakers who have an ambitious goal of at least 60% of Texans ages 25-34 having a certificate or degree by 2030. Businesses, educators and lawmakers have touted community colleges as bridges for high school graduates to obtain marketable jobs and a less expensive way to complete prerequisites before moving on to a four-year institution.

A shortage of skilled workers existed prior to the pandemic, but now declining community college enrollment is worsening the shortage. By some estimates more than 70% of Texas jobs will require a postsecondary credential in the next decade or so, often the kind community colleges can offer. However, roughly one-third of Texas high school graduates fail to earn an additional degree or credential within six years of graduation.

And the report documents other disquieting trends about higher education in the state. Since 2019, according to the coordinating board, overall enrollment has dropped 5.5% among white students, 4.9% among Hispanic students and 3.8% among Black students.

And while women still outnumber men on college campuses, male enrollment increased by around 23,000 students from 2020 to 2021, while female enrollment decreased by roughly the same amount. So right now, about 40,000 fewer women are enrolled in higher education in Texas than before the pandemic. And the Legislature has done the state's 50 community college districts no favors, providing community colleges across Texas with significantly less than their funding request this year.

It is critical that our state removes barriers to community college enrollment and that community college students — often working adults with family and child care responsibilities — understand that a two-year degree can open doors to a better job and a brighter future. Texas needs an educated, skilled and adaptable workforce, and community colleges are an important pathway toward that goal.

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SMU's $1.5 Billion Fundraising Campaign Targets The Needs Of North Texas
Dallas Morning News

Universities have multiple challenges, not the least of which are keeping pace with the educational demands of our society and providing opportunities for students from underserved communities to obtain a life-changing education.

Needless to say, that takes money and sustained commitments, which is why Southern Methodist University recently set what could be the biggest fundraising target ever by a private university in Texas. Even by the rarefied standards of university fundraising campaigns, $1.5 billion for scholarships, faculty research, educational partnerships and athletics is a remarkably lofty target.

Not only is this goal achievable in a community that embraces philanthropy and that answered SMU's call previously, it also is an important investment in the future of North Texas. SMU, for example, wants to raise more than $450 million to offer more need- and merit-based scholarships with a focus of making sure that students in North Texas who are eligible for Pell Grants can afford an SMU education.

Federal data shows that 9% of students received Pell Grants, which are awarded based on family income and the cost of college attendance, from 2019-20 and university stats show that roughly 12% of SMU's undergraduate students are currently Pell-eligible, more than half of whom come from North Texas.

SMU's thrust is significant for several reasons. Educational debt is an impediment for many students, especially for first-generation college students who worry that they will graduate with crushing financial obligations or

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drop out without a degree but debt obligations. These students may be mired in low-paying jobs when a college education would have given them brighter prospects. This dynamic also hurts employers, who will struggle to find talented and diverse workforces.

SMU also plans to raise and invest more than $600 million to step up its research capabilities to become an R1 university, a Carnegie Classification of Institutions of Higher Education designation reserved for institutions with a high volume of research and talented faculty. SMU has advanced from R3 status to R2 status and now has its sights on the top level. Further improvement in the rankings depends on the school's ability to continue to hire star-quality research faculty and provide them with top-flight resources, including post-doctoral staff.

SMU also is pursuing teaching, corporate, industrial and nonprofit partnerships, such as the West Dallas STEM School and Dedman School of Law legal clinics for those who cannot afford representation. And since this is Texas, SMU wants $450 million to invest in athletic facilities, programs, student-athletes and community outreach programs.

So far, the campaign is off to a good start with more than $654 million in pledges, including more than 90 individual contributions of $1 million. The pledges exceed the more than $542 million that SMU raised during a campaign from 1997 to 2002 and are on pace to eclipse the $1.15 billion that SMU raised between 2008 and 2015. And the results are tangible. The latter campaign delivered 689 endowed scholarships, 54 new endowed faculty positions and significant funding for 24 major new facilities or renovations.

North Texans regularly demonstrate great generosity for great causes, and we hope and expect our community will step up again. If SMU succeeds here the university will be stronger for it and our city and region will reap benefits from it for generations to come.

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Texas Needs To Watch, Learn From The Deadly Alec Baldwin Shooting On Film Set
Houston Chronicle

Vexing questions remain about what actually happened Oct. 21 on the set of a movie being made near Santa Fe, N.M., when an antique Colt .45 discharged as it was being used as a prop by actor Alec Baldwin during rehearsal of a scene. A projectile from the revolver struck and killed Halyna Hutchins, director of photography on the movie, a Western called "Rust." Joel Souza, the director, was standing beside Hutchins and was injured.

The tragic incident prompted understandable anguish on the part of all who knew the 42-year-old Hutchins, a highly regarded cinematographer, as well as a wife and mother. Ongoing police investigations are asking how a gun that was declared "cold" — that is, safe to fire — as it was handed to Baldwin could have killed someone.

What happened on a New Mexico movie set also should prompt serious soul-searching far beyond the movie industry. We have in mind those among us who don't take firearms seriously enough. Texas elected officials, careless in their Second Amendment convictions and craven in their kowtowing to gun-rights zealots, come to mind immediately.

Similar accidents on movie sets have happened before, although they are rare, thanks in large part to strict safety rules. A 2016 Associated Press investigation found that at least 43 people had died on sets in the U.S., going back to 1990; more than 150 had suffered serious injuries. A tiny percentage of those deaths were specifically attributed to firearms being used as props, even though guns are integral to countless movies.

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The gun death most often remembered is that of 28-year-old Brandon Lee, son of the late martial arts star Bruce Lee. The younger Lee died in 1993 while filming a scene for the movie “The Crow” after being hit by a .44-caliber slug fired from a prop gun supposed to have been filled only with blank rounds.

Lee’s death was the last recorded accidental death by a gun that was being used as a prop on a movie set. Nearly a decade prior, actor Jon-Erik Hexum was killed on the set of the TV series “Cover Up.” He shot himself in the head while playing Russian roulette with a gun loaded with blanks, which can still be deadly at very close range.

Investigators say there was "some complacency" in how weapons were handled on a movie set where Alec Baldwin accidentally shot and killed a cinematographer and wounded another person. (Oct. 27) Video: Associated Press

In large part because of those two deaths, film makers today are expected to rigidly adhere to page after page of detailed regulations regarding firearms on set. Their bible, so to speak, is “Safety Bulletin” No. 1, posted anytime a set will involve the use of firearms and compiled and distributed by the Industry-Wide Labor-Management Safety Committee.

The bulletin goes on to lay out comprehensive instructions for firearms protocol. The general rules include never pointing a firearm at anyone; never placing your finger on the trigger until you’re ready to shoot; knowing where and what your intended target is; no horseplay with any firearms; never discharging a weapon when the barrel is clogged; and never laying down a firearm or leaving it unattended. Additional regulations speak to movie-production specifics.

Those basic instructions, of course, are well-established rules familiar to all who deal with firearms regularly, from law enforcement officers to the military. It includes many members of the National Rifle Association, particularly those members who recall when their organization was dedicated primarily to shooting safety and basic firearms instruction, rather than to high-pressure lobbying and the wholly invented notion of Second Amendment absolutism that it has championed of late. Mistakes happen, rules are broken and people get careless, but those who know guns best are well aware that rules, regulations and strict protocols save lives.

While cops, soldiers, NRA firearms instructors and responsible gun owners — not to mention Hollywood filmmakers — are usually dead serious about firearms, Texas lawmakers are not. They’re irresponsible “huckleberries” when it comes to gun sense.

A responsible elected official would not have supported legislation in the previously concluded session that makes it almost as easy for an adult Texan to walk into a sporting-goods store and purchase a gun as it is to buy a fishing rod or a camping tent.

Make your choice, put down your credit card and pass a perfunctory background check, and you’re not only a gun owner but fully authorized to carry it with you just about anywhere you want to go. No licensing needed, no training in laws and safety, no demonstrated proficiency in shooting. Just grab that gun and go.

Go to church with it on your hip or in your purse; go to Applebee’s and tuck into the Sizzlin’ Caramel Apple Blondie armed; sit in the stands locked and loaded at Little League games; pray in a pew at church with a pistol on your hip. You’ll never know when and where you’ll have to whip it out and use it, regardless of your skill level or good judgment.

No wonder so many Texas police chiefs opposed the so-called permitless-carry legislation that Gov. Greg Abbott signed in June.

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Firearms are ubiquitous on movie sets; deaths and injuries are rare. Firearms are ubiquitous in American society, particularly in Texas and the South; deaths and injuries are anything but rare.

In 2020, gun violence killed nearly 20,000 Americans, the highest total in two decades, according to data from the Gun Violence Archive. An additional 24,000 people in this country used a gun to kill themselves. Those figures combined are 25 times higher than any other developed nation.

And the state with the highest number of gun deaths in 2020, in 2019, and many years before that? That would be Texas, Our Texas, with 3,683 last year.

Mortality data from 2019, the most recent year for which the U.S. Centers for Disease Control and Prevention has reported, shows that even on a per-capita basis, gunshots kill more Texans each year than in America's other largest states, including California, Pennsylvania, Illinois and New York, where fewer than 900 accidental gun deaths took place. Among the six biggest states, only Florida's gun death rate matched our own.

In the wake of the tragic New Mexico incident, the movie industry is already considering even stricter rules, including potentially banning real guns on sets, and relying on computer-generated images instead. A senior California lawmaker has already filed a bill that would ban the use of live ammunition, and guns capable of firing it, from sets.

Given Texas' terrible track record of deadly shootings, including some of the nation's worst mass shootings, a Texas lawmaker truly committed to the public's safety would be looking for solutions, too. Worthy ideas abound: investment in community violence interruption programs, prohibiting individuals convicted of domestic violence crimes from possessing firearms, pushing for secure storage of guns at home, funding gun-violence research, to name a few.

If only ideas and common sense were enough. They aren't though, not without political courage.

We live in Texas, of course, where gun laws are more relaxed than they were in the real Wild West of Dodge City, Tombstone and Old Tascosa. Until we begin electing lawmakers serious about gun safety and violence prevention, thousands of dead Texans will continue to be collateral damage in our faux Wild West. To the gun lobby and those irresponsible officials who profess their fealty to it, lax gun laws are more important than life itself.

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# # #

Greg Abbott News

Wall Street Vs. Texas politicians: Could Their Tense Relationship Worsen Before It Gets Better?
By Max Abelson
Bloomberg

Outside San Antonio this month, a veteran of Texas politics got so upset about Wall Street's retreat from fossil fuels that he compared the oil industry's fight for funding to the civil rights struggle.

In Dallas, a hedge fund manager trading junk bonds on his iPhone lamented his upcoming move to the posh Highland Park neighborhood, fearing locals might brand him an outsider even though he relocated from New York years ago.

And at an Austin diner, a finance executive whose grandfather was governor hoped for compromise between Wall Street and the Lone Star State, but warned it may get worse before it gets better.

Welcome to the tense battle brewing between Big Finance and Texas. Just a few months ago, drawn by the promise of low taxes and light regulation, some of the largest banks and asset managers in the U.S. were ramping up their flight from the coasts.

Then Gov. Greg Abbott signed a law banning state investments in firms that cut ties to oil and gas and another blocking local governments from working with banks that limit their lending to gun companies. That halted business for some top municipal-bond underwriters.

JPMorgan Chase & Co., Bank of America Corp., Citigroup Inc. and Goldman Sachs Group Inc. have all stopped muni underwriting in the state, at least for now.

But what's happening in Texas isn't just about muni bonds or a Republican governor leaning to the hard right in a bid to win reelection next November. It's a broader conflict between a state that would be among the world's top economies if it were its own country and an industry whose leaders have begun to raise their voices on social issues from racial equity to climate change while pledging to consider stakeholders besides investors.

Interviews with more than a dozen bankers, traders and investors suggest that when Texas decides banks have gone too far, it presages a bigger struggle over corporate power and the reach of Wall Street's influence.

Bigger than munis
"This is much bigger than the municipal bond business," said Phil Gramm, a former Republican U.S. senator from Texas. "This is the beginning of telling Wall Street that if

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you're going to discriminate due to your fealty to special interest groups, you're going to have to pay for it."

Gramm helped write the law that allowed for the creation of Citigroup and other Wall Street giants, and later was vice chairman of UBS AG's investment bank. He prefers to use what he calls the language of the civil rights movement, comparing an oil driller's ability to borrow funds to the right to sit at segregated lunch counters: "Discrimination is discrimination."

Until recently, the finance industry's ties to Texas had never looked stronger.

Goldman Sachs has been on the hunt for a new Dallas-area campus that could be its biggest in the U.S. outside Manhattan.

And Vanguard Group announced a new Dallas-Fort Worth office not too far from fresh space for hedge fund Canyon Partners.

Inside an Austin restaurant called Cisco's, where a wall of luminaries includes a photo of former Gov. Bill Clements, his grandson George Seay ate huevos rancheros with biscuits and gravy.

Seay, founder of investment firm Annandale Capital, said it was "a big, big move" when JPMorgan boss Jamie Dimon and other top executives said in 2019 they're redefining the purpose of corporations to benefit workers and communities, not just shareholders.

The way he sees it, things are coming to a head in Texas because corporations have "become woke" just as Abbott, who's running for a third term, is signaling to supporters that he's the biggest conservative in town.

Texas all but banned abortion this year and stopped transgender high school athletes from playing on teams that don't align with their birth certificate. When North Carolina passed a parallel bathroom bill five years ago, corporate boycotts helped pressure the state to abandon it.

"That's not going to work down here," Seay said last week.

Instead of one side getting its way on social issues, he said, executives and politicians will have to each make compromises. "You can be friends with someone who doesn't agree with you."

'We need the brains'

When Bobby Tudor moved to Texas decades ago, Goldman Sachs colleagues told him he was making a mistake. But then they gave him a hard time around bonus season because he got to keep so much more of it than colleagues in New York, where taxes are higher.

"My answer was: 'Move to Texas, dude,'" Tudor said.

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Some of them did.

Tudor, who co-founded the energy-focused investment bank Tudor, Pickering, Holt & Co., said Texas didn't start this fight. Corporate leaders are "feeling compelled to speak out and take positions on all sorts of matters that aren't necessarily central to their business."

In an office that looks down on the Houston Ship Channel, he said people in Texas feel their "version of a great world isn't the same as Larry Fink's." He added that the Greater Houston Partnership, a group of business leaders he has helped run, supports the right of businesses to require vaccinations, something Abbott has tried to ban.

Asked about the tension, Abbott said "people and businesses vote with their feet, and month after month they are choosing to move to Texas." He cited the pull of "no corporate or personal income taxes, a predictable regulatory climate, and a young, growing, and skilled workforce."

The fight is already spreading past Texas.

Last week, a panel in Louisiana delayed approving a $700 million state bond sale set to be underwritten by JPMorgan while the attorney general presses for information on the bank's gun policies. Dimon told Congress this year that his bank doesn't finance gun companies that sell military-style weapons to consumers.

Over the years, it's frustrated Dallas real estate investor and developer Lucy Billingsley to watch Texas pass socially conservative laws she can't support. Even so, she adores the state's pro-business environment, those low taxes and light regulation.

She wants finance firms to embrace that same calculus.

"Come engage and lead," she said. "We need the brains — and we need to make this a better place."

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Gubernatorial Hopeful Don Huffines Says His Texas Senate Loss Tainted By 'Election Irregularities'
By Robert T. Garrett
Dallas Morning News

GOP gubernatorial hopeful Don Huffines is alleging there were voter irregularities in his losing race against Democratic state Sen. Nathan Johnson of Dallas in 2018.

Johnson won by some 24,300 votes out of nearly 294,000 cast and at the time, Huffines conceded and tweeted a pledge that he would work for a smooth transition with Johnson.

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Although Huffines in 2018 did not publicly suggest that Johnson's 8-point victory was tainted, his concession tweet has been deleted and he said last week that he believes he was "ripped off in '18 when I lost my election."

Election "fraud" has become a campaign issue for Republicans since former President Donald Trump called the 2020 presidential contest rigged, even after dozens of judges, some of whom he appointed, and his own Justice Department dismissed the allegation as baseless.

After the November 2018 midterms, "numerous Texans" came to Huffines with "concerns of election irregularities in Dallas County, including in SD 16," or Senate District 16, he recounted Thursday in a written statement to The Dallas Morning News.

A day earlier, Huffines claimed he'd been "ripped off" in the 2018 state Senate race at a gubernatorial candidate forum in Decatur.

Moderator Shelley Luther, the former Dallas hair salon owner who went to jail for refusing to shut down during the coronavirus pandemic, asked Huffines and fellow Republicans running for governor for their thoughts on "election integrity," early voting and mail-in ballots. Huffines cited his 2018 defeat as illustrating why the state needs a bigger agency to investigate vote fraud.

In 2018, through an election lawyer he didn't name, Huffines recounted that he relayed the allegations to Attorney General Ken Paxton's office. So did some of the other unnamed Texans who had shared their suspicions with him, Huffines said.

"Unfortunately, due to being heavily understaffed, the AG's office is just not able to sufficiently investigate everything that comes their way," he said in his statement to The News.

At Wednesday night's forum, which Gov. Greg Abbott declined to attend, Huffines said people can "dream on" if they think the attorney general's office has sufficient staff to be able to thoroughly investigate election irregularities.

"People have cheated in an election since there's ever been elections," Huffines said at the event, sponsored by a tea party-style group, Wise County Conservatives.

"I think the cavemen probably cheated each other," he said. "Republicans cheat. Democrats cheat. There's no question about that."

Huffines is proposing a new 500-person agency for anti-corruption and election-related probes.

"They're going to be familiar with every law, every election law," he told conservative activists in Wise County, speaking of the proposed agency.

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“They’re going to know where the software is, who owns the software, where the machines are. They’re going to be in between the two parties. They are going to follow the ballots. Most important, you’ve got somebody that you can call when you know other people are cheating.”

As of late Saturday, the plan was not mentioned in the issues section of his campaign website.

Nor did Huffines spokeswoman Hannah Sacia respond to queries about where in state government the “government corruption and election integrity division,” as Huffines called it at the forum, would be located.

While Paxton has an election fraud unit, his budget request to the Legislature about a year ago does not specify how many people work in the office, which is apparently a part of his office’s Special Prosecutions Division. In December, the Houston Chronicle reported that the office had 17 law enforcement sergeants and four prosecutors.

Last week, a Paxton spokesman did not respond to an email requesting the number of full-time employees who are investigating alleged voting irregularities.

“Expecting for the AG’s office to investigate all potential fraud is simply unrealistic,” Huffines said in his statement to The News.

Johnson, a lawyer who specializes in commercial litigation and bankruptcy in the Dallas office of the international law firm Holland & Knight, ran as a centrist Democrat. He criticized Huffines, a real estate developer, for veering too far right. “I can help you get your party back,” Johnson told Republicans at the time.

Senate District 16, though recently changed by GOP map makers, stretched east from DFW International Airport to Rowlett, north to Addison and south to Uptown Dallas.

Told of Huffines’ Wednesday remarks, Johnson late last week said, “I do recall that shortly after the election he expressed the opinion that there were some irregularities, hinting at fraud.”

However, “at the time he did not, so far as I know, push the notion that absent the ‘irregularities,’ he would have won,” Johnson said in a text message. “The notion is laughable, and I believe he knows that. Which makes any present suggestion to the contrary disingenuous political BS.”

Sacia, the Huffines spokeswoman, did not respond to Johnson’s remarks.

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As Texas Politics Become Nationalized, Gov. Greg Abbott Moves To Squash GOP Critics Outside Of State

By Gromer Jeffers Jr.
Dallas Morning News

The nationalization of Texas politics has created a challenge for Texas Gov. Greg Abbott, who's had to fend off criticism of his border security approach and endure former President Donald Trump's insistence on election audits.

Moderates and Democrats charge that Abbott has gone too far right with his conservative agenda. They decry his plan to finish Trump's border wall, deplore the state's new law that limits mail-in voting and denounce Texas' law that bans abortion after six weeks of pregnancy.

Gov. Greg Abbott is pushing back on accusations that he hasn't thrown enough military muscle into stopping a surge of migrants at the Texas-Mexico border. Abbott, shown at a Fort Worth press conference after signing a border-security funding bill into law in Fort Worth last month, said on Fox News' Tucker Carlson show late Thursday that Texas has 6,500 National Guard and state troopers on the border.

That's just a sample of the bounty of conservative legislation approved by the Legislature this year over four legislative sessions. Abbott also has banned vaccine mandates and passports.

But that isn't enough for some national conservative voices that influence conservative voters.

Ordinarily, what folks outside the state think about the Texas governor isn't of great concern. It's the view inside Texas that counts the most.

But Abbott is dueling with Florida Republican Ron DeSantis for the conservative title of America's governor. The person who fills that role could be a contender for a national ticket in 2024, depending on whether Trump makes another run for the White House.

More urgently, Republican activists are swayed by the coverage they see on conservative media networks. If the national media has negative perceptions of an elected leader or political candidate, it could result in a backlash at the polls.

"Between COVID and the border situation, local issues have become nationalized," said former Dallas County Republican Party Chairman Jonathan Neerman. "Border security is a very important issue to voters around the country, and they naturally focus on Texas because that's where the issues with migrants have been."

Former state Sen. Donald Huffines of Dallas and former Texas GOP Chairman Allen West of Garland are the leading challengers against Abbott in the 2022 Republican

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primary for governor. They have been pointed in their criticism of Abbott's record, including on border security issues.

Neerman doesn't put much stock in that criticism, countering that Abbott should be heavily favored to win his March primary contest. But he does add that national figures dabbling into Texas politics often have a distorted view.

"Whether it's election security or border security, this governor has done an awful lot," Neerman said. "And this legislative session showed that, but it's not going to satisfy people who don't live in the state."

Tucker Carlson criticism

For the past several weeks Abbott's record on border security hasn't been satisfactory to popular Fox News host Tucker Carlson. Last month, Carlson, whose show is the highest-rated news program on cable television, began lambasting Abbott for not deploying enough personnel to interrupt a rising tide of unauthorized immigrants that Republicans blame on President Joe Biden's immigration policies.

Although Abbott has secured nearly $3 billion from the Legislature this year to significantly ramp up the state's border security effort, including a plan to put 2,500 Texas Military Department personnel there, some staunch conservatives are calling it too little, too late.

Even more galling to Abbott and his supporters, Carlson invited Huffines and West to appear a week apart on his prime-time show to discuss the governor's alleged failure to supply enough soldiers. That prompted a flurry of Abbott social media posts supportive of the soldiers. "Join me in thanking the Texas National Guard for their daily work to secure our border," Abbott tweeted on Sept. 22.

Secure in the need to respond, Abbott last Thursday appeared on Carlson's show. Interested parties waited for fireworks.

Abbott had been prepped for a tense exchange, but it didn't occur. Carlson asked the governor a couple of questions about border security. They bashed Biden's efforts.

"We now have 6,500 National Guard and DPS troopers on the border to help secure the border. And as we're talking right now, they are identifying locations on the border where they are laying down razor wire to secure all the possible crossings that these caravans may be coming to," Abbott told Carlson.

Abbott said the National Guard and Department of Public Safety were placing large metal shipping containers at places that "could be crossings" for migrant caravans sighted in Mexico. He said state officials have advised him that portions of his proposed state-built border wall will be erected by Dec. 31.

Carlson didn't challenge Abbott, and the short segment closed without fireworks.

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The Trump factor
The Abbott/Carlson episode comes after Trump prodded Abbott to support a forensic audit of the 2020 Texas elections. Yes, the same elections that resulted in Trump's comfortable victory over Joe Biden in the Lone Star State's presidential contest.

Though it was difficult and perhaps unwise for Abbott to publicly engage with Trump, he'll probably make more appearances on national conservative shows, especially if designed to defend his name.

"This is part of the nationalization of state politics in Texas," said Jim Henson, director of the Texas Politics Project at the University of Texas at Austin. "It's very hard to ignore that kind of criticism because your base is plugged into those media outlets."

Henson said Republicans across the U.S., including those in Texas, are eager to appear on conservative networks. Frequent voters watch the shows on networks like Fox News.

"A lot of state officials, including in Texas, benefit from appearing on those shows because it's a great way to get their message out, and building some degree of a national profile is a bonus," Henson said. "But there's a downside to that. You can't guarantee the most well-known figures on those outlets are going to always be your friend, are going to always approve of what you do and are always going to be on your side."

In the contentious era of Trump, Republican voters are increasing connected to national themes. That's why Abbott and GOP lawmakers pushed a legislative agenda filled with issues familiar to folks across the country, including the new elections law, banning the teaching of critical race theory, curbing so-called social media censorship and regulating transgender athletes.

At a forum earlier this spring, several Republican candidates to replace the late Ron Wright in Congress touted their ability to get on national television. Jake Ellzey eventually won the race over Susan Wright, the Trump-backed candidate.

And it's not just Republicans who crave the national spotlight. Texas Democrats are swayed by progressive programming on networks such as MSNBC and CNN.

"You kind of make a deal with the devil and then you're kind of stuck with it," Henson said. "There's that dynamic in which there's a slant to the discussion and the coverage, and it can benefit you, but then you have to deal with it when it hurts you."

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Texas Legislature

With Grades Like These For Political Maps, Texas Won't Be Making The Honor Roll

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By Ross Ramsey
Texas Tribune

Republican legislators in Texas and Democratic legislators in Illinois have something in common: When it comes to drawing new political maps, they don't play fair.

The Redistricting Report Card, a collaboration between the Princeton Electoral Innovation Lab and RepresentUS, gives the new Texas congressional map an F for partisan fairness, saying it's drawn for "significant Republican advantage."

The congressional map scored better on competitiveness, meriting a C. But it got another F for geographic features, with the graders saying it has a lot of non-compact districts and that more districts split counties than necessary. In this case, a C is "average for the category, could be better, but also could be worse," and an "F" is "poor for the category, could be much better."

With Republican majorities in both the House and the Senate, and Republicans in every single statewide office, it's fair to say Republicans are responsible for those results.

Democrats would never do that, right?

Turn your attention to the great state of Illinois. The Redistricting Report Card gives Illinois' new congressional maps an F in every category: partisan fairness, competitiveness and geographic features. Their governor is a Democrat, as are both houses of their Legislature. The state has 17 seats in its congressional delegation, and 14 of the districts are drawn to favor Democrats. Based on the results of the last presidential race, that ought to be more in the range of 10 Democrats and seven Republicans.

The two states illustrate the conflict of interest wired into their redistricting laws, which let the people who hold legislative seats draw the districts where they compete to keep their jobs and their party majorities.

It's designed for political majorities to continue their dominance and for incumbents in both parties to keep their powerful posts, and it shouldn't be a surprise when it works the way it's rigged to work.

Texas' new congressional map has more Democratic seats than the current map, if you're measuring districts according to their average margins of support for Democrats and Republicans.

Those gains didn't come from Republicans: Lawmakers, according to an analysis by FiveThirtyEight, cut the number of competitive districts — those with less than a 5-percentage-point advantage for either party — from six to just one. The other 37 districts are solidly Republican or Democratic.

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Texas has 13 Democrats and 23 Republicans in its congressional delegation now; the new maps, which add two seats overall, have 13 districts where Joe Biden would have won in 2020 and 25 where Donald Trump would have won, according to Texas Legislative Council data.

If the 2020 presidential result is the measure, that delegation ought to have about 20 Republicans and 18 Democrats.

Texas lawmakers also drew maps for themselves, now signed into law by the governor and already the subject of litigation over the legality and fairness of the new districts. The report card gives the Texas House map a C for fairness and a C for geographic features, but an F for competitiveness. That's an indication that the maps were drawn, as much as possible, to favor one party or the other — not to set up general election fights either side might win. Overall, it still favors Republicans, but not to the extent the congressional map does.

The Texas Senate map also scored better than the state's congressional map for partisan fairness. But the project gave it F grades for both competitiveness and geographic features. It could be more competitive, in other words, and the districts could be a lot more compact.

If the maps hold — remember that they're being contested in federal court — they point to a lot of uncontested general elections for federal and state legislative seats. That moves the focus to the primaries, which can be competitive no matter which party has the upper hand.

Those are harder to rig.

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State News

Get Updates On The U.S. Supreme Court Hearings On Texas' Near-Total Abortion Ban
Texas Tribune

The U.S. Supreme Court will hear two high-profile legal challenges to Texas' near-total abortion ban that prohibits the procedure as early as six weeks, which is before many people know they are pregnant. The arguments are slated to begin around 9 a.m. Central time Monday.

Under Senate Bill 8, enforcement of the new restrictions is left to private citizens instead of state officials because it allows anyone to file lawsuits against people who perform or assist someone in getting an abortion. People or groups that are successfully sued can face penalties of at least $10,000. It's a restrictive law that, if upheld, ends abortion

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access for millions across the state. The most recent court ruling on the issue allowed the law to remain in effect while the law works its way through the appeals system.

The arguments the high court is hearing Monday, however, are not expected to be focused on the constitutionality of abortion. The first case, brought by the U.S. Department of Justice, is about whether the U.S. can file legal battles targeting Texas, judges and others to prevent people from being sued under the state's new abortion law. This could bring clarity to who can be sued in any attempt to challenge SB 8 from being enforced. In the second case, brought by abortion providers, the court will consider whether a state "can insulate from federal-court review a law that prohibits the exercise of a constitutional right" by offloading its enforcement to the general public.

But while the arguments in the cases brought Monday are narrow, the justices can ask any questions and ultimately issue any ruling they wish — which makes it hard to predict exactly what could happen. However, watchers of the court and legal experts agree a broad ruling is unlikely. It is also unlikely that a ruling will come Monday.

Listen to the proceedings live here, follow the coverage of The Texas Tribune's Reese Oxner below and check out our related coverage.

Read more coverage about the state's near-total abortion ban here:

- We annotated the provisions of Senate Bill 8 that outline the enforcement process, perhaps the most unusual aspect of the state's near-total ban.
- The law's unusual enforcement mechanism is leaving abortion providers across the state without a playbook to respond and few options to fight the restrictions in court.
- This new law is the latest, most devastating blow from lawmakers who have been on a warpath to steamroll abortion access for decades. Getting an abortion in Texas has become more difficult than anywhere else in the nation.
- While the law has widely been referred to a six-week ban, the reality is closer to two weeks. Calling it strictly a six-week ban fails to take into account the nuance in circumstances many people face when it comes to pregnancy.
- A Texas doctor from San Antonio is already facing two lawsuits for performing an abortion illegally under the state's new law. He announced that he performed the procedure in a Washington Post column, saying that he "wanted to make sure that Texas didn't get away with its bid to prevent this blatantly unconstitutional law from being tested."
- In addition to this Texas law, advocates on both sides are closely watching a highly anticipated Mississippi case heading to the U.S. Supreme Court that could overturn Roe v. Wade. If the court were to overturn Roe, however, it could lead "trigger laws" across 12 states — including Texas — that ban all abortions to go into effect.

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How Today's Near-Total Abortion Ban In Texas Was 20 Years In The Making.
By Kevin Reynolds
Texas Tribune

Here is a list of Texas laws since 2000 that restrict abortion access.

2000 – First parental notification law goes into effect

Doctors must notify a parent 48 hours before an abortion is performed on a child under the age of 18. Notification can be waived if a teen seeks permission from a judge for the procedure, known as "judicial bypass."

2003 – The "Women's Right to Know Act."

- All abortions after 16 weeks must take place in an outpatient surgery center or a hospital.
- Women must wait 24 hours before getting an abortion.
- Additions to the law come in 2011.

2005 – 24-week ban, more restrictions for teens

- All abortions banned after 24 weeks of pregnancy.
- Tightens previous parental notification law. Doctors must have court order or parental permission to perform an abortion on underage teens. A requirement that the required form must be notarized, was added in 2006.
- All abortions banned after 24 weeks of pregnancy.
- State funding provided to crisis pregnancy centers and other nonprofit organizations that counsel pregnant patients against having an abortion.

2011 – Sonogram law, taxpayer dollar restrictions

- Women are required to get a sonogram 24 hours before an abortion.
- A physician must display and describe the sonogram to the woman, including the dimensions and features of the embryo or fetus. Also, the physician must describe and make the heartbeat of the fetus audible so that the woman can hear if a heartbeat is present.
- Texas agencies can no longer use tax dollars to provide or "promote" abortions and they are forbidden from from contracting with facilities that provide abortion care.

2013 – More restrictions on doctors, facilities, patients, "medication" abortion

- Doctors performing an abortion must have admitting privileges at a hospital within 30 miles of the abortion facility.
- Abortion after 20 weeks post-fertilization is banned, unless a patient is at risk of death or the fetus has a severe medical problem.

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- Doctors administering medication abortion must follow a state-mandated protocol.
- All abortion facilities must meet the standards of ambulatory surgical centers, even if a facility provides abortion only by administering pills to swallow.

2017 – Second-trimester abortions, restrictions on insurance coverage

- Texas banned the most-used procedure for second-trimester abortions, forcing doctors to either use experimental procedures or stop providing second-trimester abortions altogether. Abortion rights advocates challenged this law as an undue burden on the right to abortion, and a court agreed and stopped the law from going into effect.
- Texas bans insurers from including coverage for abortion in a comprehensive health insurance plan, requiring people to purchase separate coverage for abortion care.

2019 – Stricter rules on government partnerships, assistance

- Criminal penalties for abortion providers who do not provide medical treatment to a fetus if born after an abortion. This scenario is virtually impossible because all abortions are banned after 20 weeks and a fetus is not viable until 24 weeks.
- Government entities prevented from entering partnerships or providing assistance to clinics that are affiliated with abortion providers, even if they do not provide abortion themselves. This cuts off vital support to communities who rely on these low-cost clinics for basic health care like birth control, gynecological exams, cancer screenings, diabetes testing and much more.

2021 – Texas Heartbeat Law

- Bans abortion as early as six weeks in pregnancy, when an embryo's cardiac activity is detected — before many people know they are pregnant.
- Also authorizes private individuals to file civil lawsuits to “enforce” the abortion ban. This allows anyone to sue the health care provider and seek a court order that would block the patient’s abortion and prevent the provider from performing any abortion after approximately six weeks in pregnancy.

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Texas’ New Abortion Restrictions Facing Biggest Legal Review Yet Monday At U.S. Supreme Court
By Morgan O’Hanlon
Dallas Morning News

The U.S. Supreme Court will soon make a decision that will put a more lasting end to the legal ping pong match playing out in the federal courts system over enforcement of the country’s most restrictive abortion law.

For months, the U.S. Department of Justice has been battling Texas over a new law that outlaws abortion after about six weeks of pregnancy. A series of rulings, appeals and requests have been filed in federal courts across the country as the DOJ attempts to block enforcement as the battle plays out.

The injunction hearing Monday will settle the question of whether the law can be enforced for the time being. Although it's possible that the Supreme Court will weigh in on the constitutionality of the law, thus reexamining Roe v. Wade, it's widely expected that the court will set a later trial date. That would mean the future of abortion access across the country will more likely be decided in a case challenging Mississippi's abortion restrictions, in which arguments are set to begin on Dec. 1.

Currently, enforcement continues because the 5th Circuit Court of Appeals allowed it to resume, overriding a previous injunction placed on the law by a federal district judge in Travis County.

Because the injunction is stayed, lawsuits can be filed in the future against those who break the law while the injunction was active. So far only three lawsuits are known to have been filed under SB 8 — all against a San Antonio physician who publicized an illegal abortion he performed after SB 8 went into effect.

In federal courts, lawsuits including the DOJ case focus on getting an injunction on the law and challenging its constitutionality. The DOJ has argued an injunction is necessary because the Texas law is currently infringing upon what it says is a constitutional right to abortion. Additionally, it says the state's attempt to circumvent rule of law through an unusual enforcement mechanism sets a dangerous precedent.

Meanwhile, in Texas state courts, plaintiffs who provide women's healthcare have attempted to ward off litigation by seeking injunctive orders against the most likely enforcers bill: vocal anti abortion groups and individuals like Texas Right to Life.

The DOJ lawsuit isn't the only lawsuit filed to challenge the Senate Bill 8. More than a dozen lawsuits challenging the law have already been filed, with the one brought by President Joe Biden's Department of Justice currently carrying the most momentum.

Legal action against SB 8
These are the SB 8 lawsuits you need to know about:

Filed by: U.S. Attorney General Merrick Garland challenged the constitutionality of SB 8.

Status: Injunction hearing set to begin November 1 to make a decision about the DOJ's request that the Supreme Court block enforcement of the law. Currently, the stay placed by the 5th Circuit is set to last at least until arguments in the case are heard, which could be weeks or months.

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This case, filed in the Western District of Texas, claims the new law is unconstitutional under Supreme Court precedent and accuses Texas of undermining the rule of law by attempting to avoid judicial review.

Filed by: Planned Parenthood affiliates challenge to potential SB 8 enforcers.

Status: Injunction granted, court date set for April 2022. Stay halts proceedings until lifted.

This case filed in State District Court in Travis County attempts to block enforcement of SB 8 against three Planned Parenthood clinics in Texas and one of its physicians by Texas Right to Life and its collaborators. Although a stay has indefinitely postponed proceedings, the injunctive relief remains in effect and a court date still stands for April. A request to lift the stay has been denied by the Texas Supreme Court.

Filed by: Attorney Elizabeth Myers filed multiple on behalf of abortion providers, clinics, attorneys and abortion funds to challenge potential SB 8 enforcers.

Status: Stayed; indefinitely postponed.

Temporary restraining orders protecting her clients from being sued by Texas Right to Life and its collaborators have expired. A panel of five Texas judges put a stay on these cases, indefinitely postponing proceedings in these cases, including a hearing originally scheduled for Oct. 4 in which Myers sought an extension of injunctive relief for her clients. A request to lift the stay has been denied by the Texas Supreme Court.

Filed by: Whole Woman's Health, Planned Parenthood and other abortion clinics and providers to challenge the constitutionality of SB 8.

Status: Emergency injunctive relief denied, arguments to be heard in December.

The first federal lawsuit against the new abortion law was blocked by the 5th Circuit Court of Appeals. Arguments in this case will begin in December.

Lawsuit filed under SB 8 provisions
Filed by: Two out-of-state former lawyers and an anti-abortion rights Houston resident.

Status: The cases in State District Court haven't had hearings set.

Former attorneys in Arkansas and Illinois filed lawsuits in September against Dr. Alan Braid, who in a Washington Post opinion column became the first Texas abortion provider to publicly reveal he violated the law that took effect on Sept. 1, The Associated Press reported. Shortly after those lawsuits were filed, Houston resident became the first anti-abortion rights party to filed a lawsuit under the law.

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Business/Economy

Texas Triangle Is Key To Economic Growth, But Brings Big Changes
By Chris Tomlinson
Houston Chronicle

The biggest Texas industries in 1960 were agriculture and oil and natural gas, and most of the state's 9 million residents lived in small towns outside Houston, San Antonio, Dallas-Fort Worth and Austin.

Politics were simpler then, with conservative Democrats holding almost every elected office. Whites made up the majority and enforced strict segregation and systemic oppression of people of color. Any white man who showed up at a state university with tuition could attend, though few jobs required more than a high school diploma and the right flesh tone.

The biggest challenges businesses faced were the weather and a lack of good farm-to-market roads. Chambers of commerce demanded low taxes, limited government and lax labor laws, which the Legislature happily delivered.

Tomlinson: Texas must change beef culture to fight climate change

Too many Texans long for those days of yore, and some politicians are trying their best to resurrect them. But the authors of a new book, "The Texas Triangle: An Emerging Power in the Global Economy," explain why those days are gone and how continued success requires new thinking.

I've been pounding on this theme for years, but the book's authors are far more qualified to make the case. They include Henry Cisneros, former San Antonio mayor and secretary of housing and urban development during the Clinton administration; David Hendricks, former San Antonio Express-News business editor; J.H. Cullum Clark, director of the Bush Institute-SMU Economic Growth Initiative; and William Fulton, director of the Kinder Institute for Urban Research.

Texas A&M Press gave them 300 pages to explore how far Texas has come, its current strengths and weaknesses, and where we might go next.

The Texas Triangle is drawn on the interstates between San Antonio, Houston and Dallas-Fort Worth. More than 80 percent of Texas's population growth has been within the triangle since 1960, and 60 percent of Texans live and work within it today.

The triangle's economic activity totaled $1.3 trillion in 2018, producing more than Mexico, Indonesia or Saudi Arabia. It accounted for 6.9 percent of U.S. gross domestic product.

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Nearly 60 percent of the state's population is non-Anglo, and soon Hispanics will be the largest ethnic group. Finance, insurance and real estate are Texas's most lucrative fields, followed by manufacturing. Oil and gas comes in third, with business services fourth and government fifth.

"Texas is more closely linked to the world economy, and through a more complex web of connections, than ever before," the authors write. "Now that Texas is an urban state, it must shed its own self-image as rural. Texas's enormous growth requires new thinking about policies and priorities."

Ask any business owner, and he or she will tell you the most critical need is a trained workforce. The authors demonstrate with detailed statistics how the state fails to provide Texas kids with the education they need to meet the economy's needs.

The triangle's rapid growth also has failed to expand access to health care. Housing in metropolitan areas is becoming unaffordable, taking up 30 percent of the average workers' pay. Texas' urban freeways are among the most congested in the nation, and our public transportation system is a joke.

When we don't provide Texans with a good education, access to health care, secure housing or a convenient way to get to work, we set them up to fail.

"The question is whether these populations of color will be undereducated, underperforming, underproductive, and alienated, leading to an impoverished and contentious future for all citizens," the authors write.

"The Texas Triangle" is not another liberal screed, though. The authors recognize that our success comes from a culture that limits government, keeps taxes low and encourages innovation. In addition to calling on Republicans to acknowledge the growing need for public services, the authors urge Democrats not to turn Texas into another California.

Looking ahead, demographers predict that San Antonio, Houston, Austin and Dallas-Fort Worth will grow into each other. By 2050, the triangle will grow 148 percent to include 35.3 million people — about two-thirds of all Texans. The Texas Triangle will look more like today's Tokyo-Osaka-Kobe corridor than the cotton fields of the past.

The question is whether Texas' larger, denser population will enjoy a decent standard of living.

"The Texas Triangle economy will be larger, but how much larger will depend on how well the urban education system prepares students," the authors said.

Will Texas schools begin computer science in elementary school? Will children learn calculus in high school to study artificial intelligence in college? How many languages will Texans speak?

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Texas' economy will require different skills and new industries in big cities. For a brighter future, we need to reimagine Texas' identity and culture before innovation leaves us behind.

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Why Black Friday And Cyber Monday Deals Won't Be The Same In 2021
By Amanda Drane
Houston Chronicle

Black Friday and Cyber Monday deals won't be as sweet as they normally are, and they may not be worth waiting for given the way some items are selling out.

I'm wont to say good riddance to the days of rowdy shoppers fighting over TVs on Thanksgiving. Still, the markdowns that drove them to such madness may be missed as retailers rein in Black Friday offerings amid surging demand, tight supplies and labor shortages that are driving up their cost of doing business.

Before the pandemic economy spurred demand and hampered supply, retailers boasted vast inventories that were expensive to store. It was cost-effective to mark them down, lure people in and purge supplies. Retailers no longer have that problem.

"Demand is there," said Venky Shankar, research director at the Center for Retailing Studies. "They don't have to stimulate demand with discounts."

And gone are the lavish inventories.

Online out-of-stock messages are up 172 percent over this time last year and up 360 percent compared with 2019, according to Adobe Analytics, noting that customers are encountering so-called "stockouts" most often with clothes, sporting goods, baby products and electronics.

"It'll get tighter and tighter towards Christmas," Shankar said. "People are also panicking and buying online, buying a lot of things and making the shortages more acute ahead of time."

Holiday decorations, too, are in tight supply. Retailers ranging from large chains such as Party City to local retailers like Kuhl-Linscomb are struggling to get holiday decorations they've ordered on shelves — even after six months of waiting. Congested ports are the main obstacle.

Normally inventories are at their highest heading into November and prices fall by around 5 percent heading into the shopping season, Adobe said. Then, of course, prices drop to their lowest point after retailers roll out holiday deals. But instead of prices declining ahead of holiday deals, they are up 3 percent.

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Compounding the higher starting price point, retailers won't mark prices down as much as they did in pre-pandemic years. Adobe predicts that consumers will pay about 9 percent more on Cyber Monday, with markdowns landing between 5 and 25 percent, down from the typical 10 to 30 percent.

Still, retailers will need to offer some discounts to meet consumer expectations and stay competitive.

"They have to give some discounts because people are used to getting discounts," Shankar said.

Retailers are already rolling them out to meet the demands of people shopping earlier. About 65 percent of Houstonians plan to shop before Thanksgiving to help make sure that the item they want is in stock and that they have enough time to ship it, according to a survey from consultancy Deloitte.

You'll still find the best deals Thanksgiving week, analysts predict. That's if supplies last.

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Health Care

COVID-19 Breakthrough Infections May Be More Serious In Communities Of Color, Researchers Warn
By Alejandra Canales
Dallas Morning News

While fully vaccinated people are a small percentage of those who contract COVID-19, some researchers are worried that racial disparities may persist among so-called "breakthrough" infections.

One major challenge, these experts said, is that many state and county health departments do not track breakthrough cases. And even when they track breakthrough cases, they often don't track those cases by race.

Last month, in an opinion piece in The Washington Post, two researchers at Boston University and a prominent New York physician warned that the lack of data could hinder public health officials' efforts to combat the coronavirus, particularly in communities of color that have been hit hardest by COVID-19.

"That there would be potential racial and ethnic inequities in COVID-19 outcomes among vaccinated people should be no surprise," wrote Dr. Oni Blackstock, a New York HIV physician and founder of Health Justice; and Alexandra Skinner, a research fellow,

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and Julia Raifman, an assistant professor, both at Boston University School of Public Health.

“Historical and present-day policies, driven by structural racism, have created striking racial and ethnic inequities in wealth, health, education, work, housing and medical care,” they wrote in The Washington Post.

“Non-white Americans are thus more likely to hold front-line jobs, less likely to be able to work from home and more likely to live in crowded homes or neighborhoods,” they wrote. “These factors increase the risk of coronavirus exposure regardless of vaccination status.”

All of the COVID-19 vaccines have proven to be extremely effective at preventing severe illness and deaths. Still, breakthrough infections have gained the spotlight with high profile cases like that of Dallas Mayor Eric Johnson, 46, who said last week that while he is fully vaccinated, he has tested positive for COVID-19.

Last month, Colin Powell, the nation’s first Black secretary of state, died at 84 from COVID-19 complications. His age and underlying health conditions may have put him at higher risk.

Public health experts say it’s important to monitor data to help identify which populations may continue to be more vulnerable to infection.

“COVID hit [our society] in the context of structural racism and structural inequities in the United States due to historical policies and modern day policies,” said Raifman.

“This is a very important time for policies to counter structural inequities as well as to counter the immediate effects of the COVID pandemic,” she said.

Julia Raifman, an assistant professor in the Department of Health Policy and Management at the Boston University School of Public Health
Raifman poses for a photo on October 1, 2020. She has developed a database stockpiling all states' policies for dealing with COVID. It has become a go-to source for journalists (including the Wall Street Journal), scholars (25 publications have cited the database), and state lawmakers.

Cecilia Tomori, the director of global public health and community health at Johns Hopkins School of Nursing, agreed that it’s important to monitor disparities. “The equity dimension consistently gets overlooked until people point out that it needs to be tracked,” she said.

At the national level, the Centers for Disease Control and Prevention transitioned in May to tracking only breakthrough infections that resulted in hospitalization or death.

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New CDC data compiled from 14 states and two cities shows how often coronavirus infections occur in vaccinated and unvaccinated people. People who were not vaccinated were six times more likely to catch COVID-19 than people who were vaccinated. These unvaccinated people were then 12 times more likely to die from COVID-19 than those who had been vaccinated.

The federal data separates breakthrough infections and their outcomes by age group. Older people who were vaccinated were much less likely to die from a breakthrough infection than their unvaccinated peers. But age is a big risk factor for dying from a breakthrough infection, according to reporting from the New York Times.

Dallas County is one of the few in Texas tracking coronavirus infections in people who have been fully vaccinated, and that data is broken down by race.

“We definitely want to see if there are any particular subgroups that may have more breakthrough [infections] for whatever reason,” said Dr. Philip Huang, director of Dallas County Health and Human Services.

As of mid-October, a cumulative total of 11,300 people have tested positive for COVID-19 despite being fully vaccinated, according to data from Dallas County Health and Human Services. Of those, 528 people who were fully vaccinated had to be hospitalized, and 123 people who had breakthrough infections died.

Huang emphasized that although the number of breakthrough infections sounds large, it represents a very small proportion — only 2.8% — of total cases in Dallas County. The county has had a total of 402,023 COVID-19 cases.

He said county health officials are also monitoring any differences on the basis of which vaccine an individual received.

Raifman said that tracking the data and looking for any disparities is the best way to manage these disparities. When made aware of Dallas County’s data, Raifman said that, to fully evaluate any disparities, the county would need more data on hospitalizations and deaths resulting from breakthrough infections, broken down by race, ethnicity and age.

Having good data on what’s happening with breakthrough cases, Raifman said, is the best way to reduce deaths, keep people in the workforce and keep kids growing up with their parents. This data helps public health officials determine when different population segments would benefit from more vaccines and plan strategies to deliver those doses.

Raifman and many other researchers have documented throughout the pandemic how inequities made people of color more vulnerable to worse COVID-19 outcomes. For example, people of color often face higher occupational exposure to COVID-19.

A study published in the Journal of the American Medical Association: Internal Medicine looked at excess deaths of Latinos in California from March to August of last year.

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(Excess deaths are the difference between the observed number of deaths in a certain period and expected numbers of deaths in the same period.) The researchers showed that people who worked jobs like cooks and farmworkers had higher exposure to COVID-19 and the highest rates of excess mortality.

But the researchers did not see excess mortality among white health care professionals.

“We know that a lot of what was driving those disparities in the first year was simply access to the means to protect yourself from infection,” Alicia Riley, an assistant professor of sociology at the University of California, Santa Cruz, told The Dallas Morning News. Riley was one of the authors of the JAMA Internal Medicine study.

“Personal protective equipment and N-95 masks helped protect the people with the most privilege, despite their workplace exposure,” she said.

In June, the Occupational Safety and Health Administration finally released an emergency workplace safety rule requiring that health care employers implement an infection-control plan to protect their employees from COVID-19. But, the initial draft of the rule submitted to the White House had been intended to cover all workers, according to reporting from Bloomberg Law.

Blackstock, the New York physician, worries that if structural factors that put people at risk for exposure to COVID-19 haven’t changed, these trends on the disproportionate impact of COVID-19 on people of color could continue.

Other research during the pandemic has also shown that people of color were more vulnerable to severe disease due to higher rates of underlying medical conditions, Raifman said. And people of color who get COVID-19 may have lower quality health care compared to that of white people, she said.

“Policies that control the pandemic are really important for reducing racial disparities,” Raifman said. “When we don’t have policies in place to control the pandemic, it really exacerbates disparities.”

Vaccinated people can still transmit the virus to other people, Huang said. That’s the reason that the county health department recommends that vaccinated people should also still wear masks when indoors and in a crowded setting, he said.

“Even if any one individual’s risk is pretty low, at a population level, [the risk] adds up,” Justin Feldman, a fellow at the François-Xavier Bagnoud Center for Health and Human Rights at Harvard University, told The News.

Writing in Slate in September, Feldman argued that “there are three main reasons I think we need to take breakthrough infections seriously. First, vaccinated people can still transmit the virus to people who are unvaccinated, including children who are not yet eligible for the vaccine.

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"Second, there are people whose health conditions put them at high risk of hospitalization and death even if they are vaccinated. This includes people with certain immunocompromised conditions who may not respond as well to vaccines, even with a booster shot," he wrote.

"Third, we are still learning about the risks of long COVID among the vaccinated. Even if a small percentage of breakthrough infections lead to persisting symptoms, that adds up to a large number of people when infections are widespread," he wrote.

A CDC study published last month showed that 70% of vaccinated people incarcerated in a federal prison in Texas tested positive for COVID-19. "That is an exceptional circumstance, because these are extremely bad conditions, so the exposure levels are very high," Feldman said. "But to me, that reinforces the main point of my Slate piece: that if exposure is high, breakthrough infections can be a serious problem."

"If we continue to allow a lot of deaths to happen and a lot of [community] spread to happen," he said, "we're going to have a lot of people who are vaccinated dying of COVID — even if it's a small percentage [of overall deaths]."

Feldman told The News that officials should be trying to prevent breakthrough infections through non-pharmaceutical interventions, including mask requirements, improved workplace protections and paid sick leave for quarantine.

"All of the [COVID-19] mitigation strategies are stronger together, and policies effectively scale up [these] strategies," Raifman said. "If we just say we recommend them, then what ends up happening is that the highest-income places have great ventilation and great rapid testing programs and great vaccine coverage.

"I think unfortunately when there's really widespread community transmission, breakthrough cases are not rare," she said. "We have to realize that controlling community transmission is good for everyone."

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Criminal Justice

Austin Voters To Consider Police Staffing Proposition, A Potential Second Rebuke To The City's Leftward Policy Shift
By Brad Johnson
The Texan

Austin voters face another public safety-focused ballot proposition and referendum on the direction of their city, its policies, and those who've approved them. On Tuesday, Proposition A will be featured on Austin's November general election ballot.
The items within Proposition A are:

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- Mandate a minimum staffing level within the Austin Police Department (APD) of two officers per 1,000 residents
- Establish a minimum 35 percent community response time standard
- Require 40 additional hours of training
- Oblige the mayor, city council, and city staff to enroll in the Citizens Police Academy
- Facilitate minority officer hiring through foreign language proficiency metrics

Austin has more than surpassed its historical homicide total, currently at 75 with two months remaining. Through September, APD crime stats show an 88 percent increase in murders, a 25 percent increase in sexual assault, a 38 percent increase in arson incidents, and a 112 percent increase in the theft of vehicle parts.

Overall, however, crime is slightly down from 2020 which itself saw a spike in crime from 2019. Crimes against persons are down 5 percent and crimes against property are down 9 percent compared to 2020.

All the while, APD is reeling from an attrition crisis within its ranks, losing 15 to 22 officers per month. APD is down over 300 officers from its staffing level two years ago. Another 150 to 200 officers are likely to leave in January next year before changes to the retirement system kick in.

The causes for attrition are a mix of internal and external leadership factors compounded by the staffing shortage. Patrol shifts most days are not fully staffed and delayed cadet classes by the council have failed to fill the void left by departing officers.

This proposition is another installation of the broader clash between the immovable object of Austin's progressive policies and the unstoppable force of a burgeoning backlash of voters across parties.

And something's got to give.

Since about 2018, the Austin City Council has been united behind sea change policies that pulled the city even further left than its traditional locus. Lighter bail policies, the recission of a public camping ban, and a massive cut to the police department budget were the signature accomplishments of a progressive cadre of organizations with growing influence.

To comply with a new state law setting punishments for large cities that cut funding to their police departments, the city council voted to restore most of the funding cut in 2020 — achieved mainly by placing the 911 call center and forensic lab back under the APD umbrella. But the 150 positions cut from authorization were not restored, and the current roughly 200 vacancies are on top of that cluster nixed last year.

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But those policies have spurred a formidable recoil from conservatives and moderates from both parties. The homeless camping ban was restored in a lopsided May election and the same group behind that effort, Save Austin Now, is also behind Proposition A.

The group turned in over 30,000 signatures of registered voters to secure its place on the ballot.

Since then, a heated campaign has taken root with over a million dollars on both sides of the political football.

As of October 26, Save Austin Now had raised over $1 million from nearly 2,000 donors and the "No On Prop A" campaign had raised over $1 million from 165 donors.

A massive chunk, nearly half, for the campaign opposed to the proposition came from billionaire progressive benefactor George Soros' Open Society Policy Center.

The "no" side has the support of Mayor Steve Adler, all but one city council member, and a litany of progressive groups and figures.

The ranks of support, meanwhile, include the Austin Police Officers Association, Councilwoman Mackenzie Kelly, three former Austin mayors, and Governor Greg Abbott.

One group that's been a focus of contention is the Austin Firefighters Association (AFA) which officially opposes Prop A, but only half of the organization's 1,200-member body voted in the internal election. Of that half, 57 percent opposed Prop A.

AFA President Bob Nicks has remained active in opposing Prop A on social media and in press statements, sparring frequently with Save Austin Now through the official union Twitter Account.

Locked in a political fight for the direction of the city, the two sides have each accused their opposites of misrepresenting the issue. In a debate last Thursday hosted by Talk 1370AM, anti-Prop A debaters claimed that Austin Police Chief Joseph Chacon is against the proposition. Chacon has said multiple times he is not taking a position on the issue, despite Adler saying publicly more than once that he was against it — including during the press conference announcing Chacon as the city's choice to head the department permanently.

Those opposed to Prop A have accused Save Austin Now of overselling the public safety threat caused by increasing trends of certain categories of crime, such as hyper-focusing on the murder rate rather than the overall crimes against persons. Compared with 2021's figures, overall crimes against persons in 2019 were about 700 incidents higher — close to on par with last year's total.

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Most pointedly, Adler spent a large portion of his 2021 State of the City speech accusing the pro-Prop A push of being "right-wing misinformation."

Another feature has been the potential cost of Prop A should it pass. The city's official estimate places the first-year cost between $54 million and $120 million, with the range based on population projections. Save Austin Now pegs the estimate at $30 million to $35 million — or $100,000 per officer needed to reach the staffing minimum. They also contend it will likely be even lower because it will be next to impossible to hire the entire 300 to 350 officers needed to meet the minimum in one year.

The city's estimate also includes costs for one-time capital expenditures such as a new substation and training facility.

In the first year, either the city's low-end estimate or Save Austin Now's would amount to less than 5 percent of the city's general fund budget. Those opposed to Prop A contend its passage would require cuts for things like libraries and parks, but those two items in this year's budget amount to only 14 percent of the general fund.

Early voting for the election finished on Friday last week and it lagged substantially behind May's early voting turnout despite having three more days of ballot casting. That indicates voters have been less enthusiastic to vote in this election than May's, but it's unclear which side may benefit. But even if Save Austin Now's side cannot replicate May's landslide in its entirety, that result presents ample slack before the scales tip the other way.

The anti-Prop A side is hoping not to replicate its lackadaisical effort against the camping ban reinstatement, and this time is far more organized and well-funded.

Ultimately, it is the voters of Austin who have the final say and on Tuesday they have a choice: ratify the city's efforts to "reimagine" its police department or deliver a second heavy blow in a year to the progressive movement driving Texas' capital city even further left.

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Brandon Daniel, Who Killed Austin Officer Jaime Padron, Found Dead In Texas Death Row Cell
By Tony Plohetski
Austin American Statesman

A software engineer sentenced to death in the 2012 fatal shooting of Austin police officer Jaime Padron was discovered dead in his cell on Texas death row, officials said Sunday.

Authorities are investigating how Brandon Daniel, 33, died, according to a statement from the Texas Department of Criminal Justice. However, officials said foul play does not appear to be the cause.

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TDCJ spokesman Robert Hurst said that at 4:25 a.m. Saturday, a correctional officer at the Polunsky Unit in Livingston was doing security rounds when he found Daniel "unresponsive on his bunk. Officers entered the cell and determined that he was not breathing."

Medics arrived at the bunk a short time later, but Daniel was pronounced dead at 5:10 a.m., the statement said. As with all deaths of a person in prison not under a doctor's care, the Office of Inspector General is investigating and an autopsy will be performed.

Daniel shot and killed Padron on April 6, 2012, as the two struggled on the floor of a Wal-Mart near Interstate 35 and East Parmer Lane in North Austin. Padron, a Marine veteran and father of two girls, had been responding to complaints from the store's employees about a possibly intoxicated shoplifter.

Daniel was quickly arrested, and police found a magazine containing six hollow-point bullets in his pocket and $57 worth of food, alcohol and other store items in his backpack.

At downtown police headquarters, in a videotaped interview, Daniel told homicide detectives he had gone into the store with the intention to steal some vegetables but attempted to flee when he saw the police officer. At least three times, witnesses said, he had admitted, "I killed a cop."

Jurors deliberated for an hour before finding Daniel guilty of capital murder in February 2014, and they then needed just eight hours of discussion before sentencing the former software engineer to die.

The next year, Daniel sent state District Judge Brenda Kennedy a letter asking to waive his appeals.

"I want justice to be served, and I feel the punishment is appropriate for my crime," he wrote. "We are both interested in saving the taxpayer's money, the time of all involved and in sparing my family and the victim's family any more angst than necessary. And finally, I would like my time in prison to be the least amount as possible."

But Daniel's appeals continued. Most recently, in 2018, the U.S. Supreme Court rejected his appeal without comment after Daniel's attorneys argued that Kennedy had improperly communicated with jurors, among other claims.

It also said that his attorneys during trial acted deficiently by missing evidence that Daniel was autistic. The diagnosis could have explained what prosecutors called Daniel's lack of remorse and use of drugs and alcohol to self-medicate, giving jurors a reason to choose a sentence of life in prison instead of capital punishment, the appeal said.

No execution date had been set for Daniel.

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A North Austin elementary school has been named in honor of Padron, who had been an Austin officer for three years but had worked for the San Angelo Police Department for 14 years.

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Opinion/Editorial

Will Declines In Community College Enrollment Widen Texas' Skilled Labor Gap?
Dallas Morning News

It's no secret that the pandemic has taken a toll on K-12 student achievement. But now another consequence of the virus is having an impact on post-high school education in Texas.

According to a recent report from the Texas Higher Education Coordinating Board, community college enrollment in Texas is now lower than enrollment at the state's four-year universities — for the first time since the 1990s.

About 80,000 fewer students, roughly an 11% drop, enrolled at community colleges during the pandemic. That compares to a 2% enrollment increase at public universities, flat enrollment at independent universities and a 10% gain at institutions specializing in health care.

The decline in enrollment hit all regions of the state but was particularly eye-opening in the Upper Rio Grande, Central Texas and the Dallas-Fort Worth area, which posted double-digit declines of 15.3%, 14.8% and 14.3%, respectively. Since 2019, all but four public community and state colleges in Texas reported enrollment declines.

This enrollment drop at community colleges deserves the attention of policymakers who have an ambitious goal of at least 60% of Texans ages 25-34 having a certificate or degree by 2030. Businesses, educators and lawmakers have touted community colleges as bridges for high school graduates to obtain marketable jobs and a less expensive way to complete prerequisites before moving on to a four-year institution.

A shortage of skilled workers existed prior to the pandemic, but now declining community college enrollment is worsening the shortage. By some estimates more than 70% of Texas jobs will require a postsecondary credential in the next decade or so, often the kind community colleges can offer. However, roughly one-third of Texas high school graduates fail to earn an additional degree or credential within six years of graduation.

And the report documents other disquieting trends about higher education in the state. Since 2019, according to the coordinating board, overall enrollment has dropped 5.5% among white students, 4.9% among Hispanic students and 3.8% among Black students.

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And while women still outnumber men on college campuses, male enrollment increased by around 23,000 students from 2020 to 2021, while female enrollment decreased by roughly the same amount. So right now, about 40,000 fewer women are enrolled in higher education in Texas than before the pandemic. And the Legislature has done the state's 50 community college districts no favors, providing community colleges across Texas with significantly less than their funding request this year.

It is critical that our state removes barriers to community college enrollment and that community college students — often working adults with family and child care responsibilities — understand that a two-year degree can open doors to a better job and a brighter future. Texas needs an educated, skilled and adaptable workforce, and community colleges are an important pathway toward that goal.

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SMU's $1.5 Billion Fundraising Campaign Targets The Needs Of North Texas
Dallas Morning News

Universities have multiple challenges, not the least of which are keeping pace with the educational demands of our society and providing opportunities for students from underserved communities to obtain a life-changing education.

Needless to say, that takes money and sustained commitments, which is why Southern Methodist University recently set what could be the biggest fundraising target ever by a private university in Texas. Even by the rarefied standards of university fundraising campaigns, $1.5 billion for scholarships, faculty research, educational partnerships and athletics is a remarkably lofty target.

Not only is this goal achievable in a community that embraces philanthropy and that answered SMU's call previously, it also is an important investment in the future of North Texas. SMU, for example, wants to raise more than $450 million to offer more need- and merit-based scholarships with a focus of making sure that students in North Texas who are eligible for Pell Grants can afford an SMU education.

Federal data shows that 9% of students received Pell Grants, which are awarded based on family income and the cost of college attendance, from 2019-20 and university stats show that roughly 12% of SMU's undergraduate students are currently Pell-eligible, more than half of whom come from North Texas.

SMU's thrust is significant for several reasons. Educational debt is an impediment for many students, especially for first-generation college students who worry that they will graduate with crushing financial obligations or drop out without a degree but debt obligations. These students may be mired in low-paying jobs when a college education would have given them brighter prospects. This dynamic also hurts employers, who will struggle to find talented and diverse workforces.

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SMU also plans to raise and invest more than $600 million to step up its research capabilities to become an R1 university, a Carnegie Classification of Institutions of Higher Education designation reserved for institutions with a high volume of research and talented faculty. SMU has advanced from R3 status to R2 status and now has its sights on the top level. Further improvement in the rankings depends on the school's ability to continue to hire star-quality research faculty and provide them with top-flight resources, including post-doctoral staff.

SMU also is pursuing teaching, corporate, industrial and nonprofit partnerships, such as the West Dallas STEM School and Dedman School of Law legal clinics for those who cannot afford representation. And since this is Texas, SMU wants $450 million to invest in athletic facilities, programs, student-athletes and community outreach programs.

So far, the campaign is off to a good start with more than $654 million in pledges, including more than 90 individual contributions of $1 million. The pledges exceed the more than $542 million that SMU raised during a campaign from 1997 to 2002 and are on pace to eclipse the $1.15 billion that SMU raised between 2008 and 2015. And the results are tangible. The latter campaign delivered 689 endowed scholarships, 54 new endowed faculty positions and significant funding for 24 major new facilities or renovations.

North Texans regularly demonstrate great generosity for great causes, and we hope and expect our community will step up again. If SMU succeeds here the university will be stronger for it and our city and region will reap benefits from it for generations to come.

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Texas Needs To Watch, Learn From The Deadly Alec Baldwin Shooting On Film Set
Houston Chronicle

Vexing questions remain about what actually happened Oct. 21 on the set of a movie being made near Santa Fe, N.M., when an antique Colt .45 discharged as it was being used as a prop by actor Alec Baldwin during rehearsal of a scene. A projectile from the revolver struck and killed Halyna Hutchins, director of photography on the movie, a Western called "Rust." Joel Souza, the director, was standing beside Hutchins and was injured.

The tragic incident prompted understandable anguish on the part of all who knew the 42-year-old Hutchins, a highly regarded cinematographer, as well as a wife and mother. Ongoing police investigations are asking how a gun that was declared "cold" — that is, safe to fire — as it was handed to Baldwin could have killed someone.

What happened on a New Mexico movie set also should prompt serious soul-searching far beyond the movie industry. We have in mind those among us who don't take firearms seriously enough. Texas elected officials, careless in their Second Amendment

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convictions and craven in their kowtowing to gun-rights zealots, come to mind immediately.

Similar accidents on movie sets have happened before, although they are rare, thanks in large part to strict safety rules. A 2016 Associated Press investigation found that at least 43 people had died on sets in the U.S., going back to 1990; more than 150 had suffered serious injuries. A tiny percentage of those deaths were specifically attributed to firearms being used as props, even though guns are integral to countless movies.

The gun death most often remembered is that of 28-year-old Brandon Lee, son of the late martial arts star Bruce Lee. The younger Lee died in 1993 while filming a scene for the movie “The Crow” after being hit by a .44-caliber slug fired from a prop gun supposed to have been filled only with blank rounds.

Lee’s death was the last recorded accidental death by a gun that was being used as a prop on a movie set. Nearly a decade prior, actor Jon-Erik Hexum was killed on the set of the TV series “Cover Up.” He shot himself in the head while playing Russian roulette with a gun loaded with blanks, which can still be deadly at very close range.

Investigators say there was "some complacency" in how weapons were handled on a movie set where Alec Baldwin accidentally shot and killed a cinematographer and wounded another person. (Oct. 27) Video: Associated Press

In large part because of those two deaths, film makers today are expected to rigidly adhere to page after page of detailed regulations regarding firearms on set. Their bible, so to speak, is “Safety Bulletin” No. 1, posted anytime a set will involve the use of firearms and compiled and distributed by the Industry-Wide Labor-Management Safety Committee.

The bulletin goes on to lay out comprehensive instructions for firearms protocol. The general rules include never pointing a firearm at anyone; never placing your finger on the trigger until you’re ready to shoot; knowing where and what your intended target is; no horseplay with any firearms; never discharging a weapon when the barrel is clogged; and never laying down a firearm or leaving it unattended. Additional regulations speak to movie-production specifics.

Those basic instructions, of course, are well-established rules familiar to all who deal with firearms regularly, from law enforcement officers to the military. It includes many members of the National Rifle Association, particularly those members who recall when their organization was dedicated primarily to shooting safety and basic firearms instruction, rather than to high-pressure lobbying and the wholly invented notion of Second Amendment absolutism that it has championed of late. Mistakes happen, rules are broken and people get careless, but those who know guns best are well aware that rules, regulations and strict protocols save lives.

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While cops, soldiers, NRA firearms instructors and responsible gun owners — not to mention Hollywood filmmakers — are usually dead serious about firearms, Texas lawmakers are not. They're irresponsible "huckleberries" when it comes to gun sense.

A responsible elected official would not have supported legislation in the previously concluded session that makes it almost as easy for an adult Texan to walk into a sporting-goods store and purchase a gun as it is to buy a fishing rod or a camping tent.

Make your choice, put down your credit card and pass a perfunctory background check, and you're not only a gun owner but fully authorized to carry it with you just about anywhere you want to go. No licensing needed, no training in laws and safety, no demonstrated proficiency in shooting. Just grab that gun and go.

Go to church with it on your hip or in your purse; go to Applebee's and tuck into the Sizzlin' Caramel Apple Blondie armed; sit in the stands locked and loaded at Little League games; pray in a pew at church with a pistol on your hip. You'll never know when and where you'll have to whip it out and use it, regardless of your skill level or good judgment.

No wonder so many Texas police chiefs opposed the so-called permitless-carry legislation that Gov. Greg Abbott signed in June.

Firearms are ubiquitous on movie sets; deaths and injuries are rare. Firearms are ubiquitous in American society, particularly in Texas and the South; deaths and injuries are anything but rare.

In 2020, gun violence killed nearly 20,000 Americans, the highest total in two decades, according to data from the Gun Violence Archive. An additional 24,000 people in this country used a gun to kill themselves. Those figures combined are 25 times higher than any other developed nation.

And the state with the highest number of gun deaths in 2020, in 2019, and many years before that? That would be Texas, Our Texas, with 3,683 last year.

Mortality data from 2019, the most recent year for which the U.S. Centers for Disease Control and Prevention has reported, shows that even on a per-capita basis, gunshots kill more Texans each year than in America's other largest states, including California, Pennsylvania, Illinois and New York, where fewer than 900 accidental gun deaths took place. Among the six biggest states, only Florida's gun death rate matched our own.

In the wake of the tragic New Mexico incident, the movie industry is already considering even stricter rules, including potentially banning real guns on sets, and relying on computer-generated images instead. A senior California lawmaker has already filed a bill that would ban the use of live ammunition, and guns capable of firing it, from sets.

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Given Texas' terrible track record of deadly shootings, including some of the nation's worst mass shootings, a Texas lawmaker truly committed to the public's safety would be looking for solutions, too. Worthy ideas abound: investment in community violence interruption programs, prohibiting individuals convicted of domestic violence crimes from possessing firearms, pushing for secure storage of guns at home, funding gun-violence research, to name a few.

If only ideas and common sense were enough. They aren't though, not without political courage.

We live in Texas, of course, where gun laws are more relaxed than they were in the real Wild West of Dodge City, Tombstone and Old Tascosa. Until we begin electing lawmakers serious about gun safety and violence prevention, thousands of dead Texans will continue to be collateral damage in our faux Wild West. To the gun lobby and those irresponsible officials who profess their fealty to it, lax gun laws are more important than life itself.

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From: OOG News Alerts <OOG.NewsAlerts@gov.texas.gov>
Sent: Tuesday, November 16, 2021 8:14 AM
Subject: Morning News Clips 11.16.21
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Morning News Clips 11/16/2021

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Politico Playbook

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Greg Abbott News

Why Gov. Greg Abbott V. Beto O'Rourke Is A Rare Heavyweight Battle In Texas Politics
By Jeremy Wallace
Houston Chronicle

Democrat Beto O'Rourke announced Monday that he will challenge Gov. Greg Abbott in his bid for re-election, setting up a heavyweight battle for governor that is unlike anything Texas has seen in decades.

"I'm running to try to help bring this state together," O'Rourke said. "To do the really big things that are before us right now and to get past the divisiveness, the extremism and the real small politics and policies of Greg Abbott."

No Democrat has won a governor's race in Texas since Ann Richards in 1990. But O'Rourke brings star power that Democrats have lacked. He has strong name recognition and has proven fundraising muscle, having raised a record $79 million in a narrow loss to U.S. Sen. Ted Cruz in 2018.

In taking on Abbott, O'Rourke is challenging perhaps the most powerful Republican in the state. Abbott, a 64-year-old native of Wichita Falls, has won seven straight statewide campaigns for office dating back to 1996 and had amassed over $50 million for his re-election.

At a political event in Floresville on Monday, Abbott called O'Rourke too liberal for Texas, an argument the governor was making with 30-second ads even before O'Rourke made up his mind to run.

HOW DID BETO O'ROURKE GET HERE?

WHY HE'S A CONTENDER: O'Rourke emerged on the statewide political map during his 2018 campaign for Senate, when he raised nearly $80 million. The core of his campaign was decrying the pettiness and partisanship in American politics and pitching himself as someone who'd be able to work across the aisle: "We can be defined by our fears or we can be known by our ambition and aspirations." A key to that campaign was visiting all 254 Texas counties, including heavily Republican areas where he would not win even 5 percent of the vote. Those travels helped give him national attention, leading to TV interviews on "The Ellen DeGeneres Show," "The Late Show with Stephen Colbert" and with Oprah Winfrey.

SERVICE IN CONGRESS: O'Rourke served six years in the U.S. House representing his hometown of El Paso from 2013 to 2019. Possibly his hallmark achievement was legislation expanding mental health care for military veterans even if they received a less-than-honorable discharge, an idea that was an outgrowth of El Paso having one of the highest suicide rates for veterans.

ROOTS: O'Rourke grew up in a wealthy, politically active family, His father was an El Paso county commissioner and was the county judge for four years. After O'Rourke attended a private, all-male boarding school in Virginia, he attended Columbia University where he earned a bachelor's degree in English. After college, he was a bass player in a punk music band before later returning to Texas. In 1998, at just 26 years old, he helped launch a technology firm called Stanton Street Technology Group.

START IN POLITICS: O'Rourke built his career on beating incumbents. First in 2005, O'Rourke defeated an incumbent city councilman in El Paso. Then in 2012, O'Rourke challenged incumbent Congressman Silvestre Reyes in a Democratic primary. O'Rourke won and served three terms in the Democratic minority in the House.

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TEXAS GOVERNOR'S RACES SINCE 1994

2018
Greg Abbott, Republican 56%
Lupe Valdez, Democrat 43%

2014
Greg Abbott, Republican 59%
Wendy Davis, Democrat 39%

2010
Rick Perry, Republican 55%
Bill White, Democrat 42%

2006
Rick Perry, Republican 39%
Chris Bell, Democrat 30%
Carole Keeton Strayhorn, Independent 18%
Kinky Friedman, Independent, 12%

2002
Rick Perry, Republican 58%
Tony Sanchez, Democrat 40%

1998
George W. Bush, Republican 68%
Gary Mauro, Democrat 31%

1994
George W. Bush, Republican, 53%
Ann Richards, Democrat 46%

“We talked earlier about the values that Texans share, and if you look at issue after issue after issue that Beto campaigned on for presidency of the United States, they weren’t just at odds with Texans — they were hostile to Texans,” said Abbott, who is seeking a third term.

The 1994 election, when George W. Bush beat Richards, was the last governor’s campaign with the “sizzle and pop” of what is setting up in 2022, said Cal Jillson, a political science professor at Southern Methodist University in Dallas.

“This is what we have all been waiting for,” Jillson said.

What makes the race so special is that O’Rourke is without question the best known and best fundraiser among Texas Democrats — and nearly the same can be said of Abbott among Republicans. For the past 26 years, the former Texas Supreme Court justice and Texas attorney general has blown out every opponent, whether in a primary or general election.

Since Bush beat Richards, no Democrat running for governor has won even 43 percent of the vote. In 2010, former Mayor Bill White was a substantive candidate against then-Gov. Rick Perry but didn’t have the fundraising and energy that O’Rourke brings to the table, Jillson said.

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The recent past has shown that money alone won't do it in Texas, which has 20 media markets. In 2014, Democrat Wendy Davis was a big fundraiser, but she couldn't crack 40 percent against Abbott in his first race for governor.

"It's not just luck" that Abbott hasn't had a competitive race in more than 25 years, Jillson said. A lot of work goes into building a machine that stops would-be challengers from emerging.

But O'Rourke has built a political career of beating established incumbents, starting with races for the El Paso City Council in 2005 and for Congress in 2012. Though he started his 2019 campaign for the White House as an early front-runner, O'Rourke's polling and fundraising tanked after Joe Biden jumped into the race.

Before Abbott and O'Rourke can face off, they need to get through the primary elections set for March 1. Abbott is facing at least two significant GOP primary opponents in former Texas GOP Chairman Allen West and former state Sen. Don Huffines. They have been attacking Abbott for not being conservative enough during his two terms as governor.

Who will run against O'Rourke in March is still being determined. Candidates have until Dec. 13 to get on the ballot for the primary.

Oil, guns and governance

O'Rourke's challenge comes as Democrats inch closer to Republicans in long-red Texas, thanks to surging voter registrations and Republicans losing ground in the state's biggest cities. After O'Rourke's close call in 2018, Biden came within 6 percentage points of beating former President Donald Trump for Texas' 38 Electoral College votes. It was the closest a Democrat has come to beating a Republican for president in Texas since Jimmy Carter won the state in 1976.

In an interview with the Houston Chronicle, O'Rourke, 49, said he will call for expanding Medicaid to cover more of the working poor, improving schools and fixing the Texas power grid so there will not be a repeat of February's winter storm that left millions without electricity.

"He's done a lot of damage to this state," O'Rourke said. "He's taking Texas in the wrong direction. The people of Texas understand that. So my challenge, and my opportunity, is to present the alternative."

Abbott is already on the campaign trail, championing the oil and gas industry that powers the Texas economy and provides 200,000 jobs in drilling alone, not counting refineries and pipelines. He's pledged to finish Trump's border wall in the state, and this year he signed into law a measure allowing unlicensed Texans to carry concealed handguns in public.

Abbott has made clear that guns will be a big piece of his debate with O'Rourke. During a campaign stop in Corpus Christi last week, he told the crowd he's fighting "Joe Biden from coming in and taking your guns the way that Beto O'Rourke said he was going to do."

That is a reference to O'Rourke's pledge in 2019 while he was running for the Democratic nomination for president: "Hell yes, we're going to take your AR-15, your AK-47."

O'Rourke made those comments during a debate in Houston just two weeks after a gunman killed seven and wounded 22 others during a shooting spree in Midland and Odessa. A month earlier, a different gunman used a semi-automatic rifle to kill 23 people at a Walmart in O'Rourke's hometown of El Paso.

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He said talking to the mother of a teenager who bled to death on the sidewalk in Odessa after being shot with an AR-15 convinced him that just banning future sales is not enough — assault-style rifles need to be taken off the streets with a mandatory gun buyback program.

He said far more extreme is Abbott signing the permitless carry legislation that allows anyone over 18 to carry a concealed handgun without any training or permits.

“I look forward to having this conversation with the governor,” O’Rourke said. “We are a proud gun-owning state. I count myself among those who grew up with guns, who grew up hunting with relatives, friends.”

He still supports a mandatory buyback program for semi-automatic rifles.

“We’ve got to find a way to get these weapons of war out of our communities because of the danger that they pose,” he said. “We can protect the Second Amendment and reduce gun violence in Texas.”

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Beto O'Rourke Is Now In The Race For Texas Governor. But Can He Actually Beat Greg Abbott?
By John C. Moritz
Austin American Statesman

When El Paso’s Beto O’Rourke burst onto the political scene four years ago as a charismatic but little-known outsider, he was about to catch the best political wave Texas Democrats had seen in a generation.

Republican Donald Trump was two years into his term and his bombastic style of politics was proving to be an anathema for many independents and moderate Republicans, especially in the Texas suburbs. Ted Cruz, the incumbent U.S. senator O'Rourke was running against, not only turned off some of the same Republicans who disliked Trump, but he generated a visceral antipathy that jolted energy into Texas Democrats who for decades had come to expect defeat in statewide elections.

But the landscape for O'Rourke, who on Monday formally announced his candidacy for governor, has changed markedly since 2018. And many political insiders say the shift has not been in O'Rourke's – or any Democrat's – favor.

El Pasoan Beto O'Rourke officially kicked off his presidential campaign in 2019.
"O'Rourke's problem is going to be that by every indication a year, nearly a year in advance, it looks like the 2022 elections are going to be substantially Republican-leaning," said Larry Sabato, the director of the Center for Politics at the University of Virginia and keen observer of national elections. "And Texas has proven beyond any doubt it is still a Republican state."

O'Rourke took dead aim at two-term Republican Gov. Greg Abbott in the video released early Monday to launch his campaign. He faulted the incumbent for the failure of the state's electric grid that kept millions of Texans without the power to heat their homes and cook their meals during the deadly winter storms in February. He hammered Abbott for his conservative policies to further restrict abortion and further expand gun rights.

But Abbott, undefeated in statewide elections dating back to the 1990s, has been ready for O'Rourke's challenge for months and has shown almost delightful enthusiasm in linking the former three-term congressman to Democratic President Joe Biden. And Biden is already far more unpopular in Texas than Trump ever was as president.

"It's a tough road for Beto. It's going to be a slog," said Brandon Rottinghaus, a political science professor at the University of Houston and the author of Inside Texas Politics. Even though Rottinghaus said Abbott's job-performance numbers "among independents are underwater," the governor still has the power of incumbency and has been adroit in his ability to tie O'Rourke to Biden.

"I think you'd rather be the governor right now than the challenger to the governor," Rottinghaus said.

Gov. Greg Abbott waves to supporters as he and his wife, Cecilia, arrive for an event where he announced his bid for re-election, Friday, July 14, 2017, in San Antonio.
Harold Cook, a Texas Democratic political analyst and commentator who no longer works for candidates, acknowledged that any Democrat running statewide in 2022 is running uphill. But the sunny side of the equation, Cook said, is that Abbott put at risk his reputation as a steady pragmatist when he lurched to the right during this year's legislative sessions in his effort to outflank conservative challengers in his own primary.

"There's no question that this is a tougher race for Beto than the one he ran against Cruz," Cook said. "The good news is, Greg Abbott has never been a weaker candidate than he is right now."

A University of Texas/Texas Tribune poll released last month showed Abbott with a comfortable 9 percentage point lead over O'Rourke. But the same poll also showed only 43% of respondents approved of the governor's job performance while 48% said they disapproved. But the governor still polled ahead of Biden, whose job approval rating was an anemic 35%.

Abbott's team wasted little time in the effort to tighten the link between O'Rourke and the president, accusing both of being hostile to law enforcement while encouraging illegal immigration.

"Beto O'Rourke has demonstrated he has more in common with President Biden than he does with Texans," said Abbott campaign spokesman Mark Miner.

But Clyde Barrow, chairman of the political science department at the University of Texas Rio Grande Valley, warned against putting too much stock in polling or Texans' attitude toward Biden more than 11 months before the 2022 general election.

"By the time we get around to the gubernatorial election, (Biden's recently passed) infrastructure bill will start to kick in," Barrow said. "There's $35 billion of that money coming into Texas. Nobody has really campaigned hard on many of the policies that were adopted by Biden."

Sabato said the Abbott-O'Rourke race will likely once more put Texas politics front and center in the national debate next near, just as the Cruz-O'Rourke matchup did in 2018. O'Rourke, already a national figure since 2018 and even more so after his short-lived run for the 2020 Democratic nomination, likely will again attract support from a nationwide donor base, Sabato said.

Abbott, too, has emerged as a national figure during his second term and has already proven himself a prodigious fundraiser in Texas and beyond.

"It goes without saying there will be a ton of national money on both sides," said Sabato. "It isn't just going to be Texas money."

Both candidates still have to survive their respective primaries. No candidate with a statewide base or even a recognizable name has joined O'Rourke on the Democratic side. Abbott's best-known GOP foes are former Texas Republican Party Chairman Allen West and former state Sen. Don Huffines. Both remain far behind in the few polls conducted so far.

AMERICAN OVERSIGHT

Assuming both Abbott and O'Rourke emerge as their party's nominee, Rottinghaus said the bigger burden will likely be on the Democrat to show he still has the magic that was on display in the Senate race four years ago.

“Can you catch lightning in a bottle twice?” he said. “That’s going to be hard to do.”

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Beto O’Rourke Went After Assault Rifles In His Run For President. Will That Hurt Him With Gun-Loving Texans?
By James Pollard and Patrick Svitek
Texas Tribune

Still raw from a deadly mass shooting that took place in his hometown of El Paso, Beto O’Rourke unapologetically defended his support for a mandatory assault weapon buyback program at a September 2019 debate in Houston.

“Hell yes, we’re going to take your AR-15, your AK-47,” O’Rourke famously said to roaring applause from a crowd at Texas Southern University. “We’re not going to allow it to be used against our fellow Americans anymore.”

At the time, the former congressman was seeking the Democratic nomination for president, trying to distinguish himself among primary voters in a wide field of candidates. Now, he’s running for governor in a state with the most gun owners in the nation against an incumbent who routinely touts his record on relaxing firearm restrictions.

In an interview with The Texas Tribune to announce his run, O’Rourke said he won’t be backing down from his message on guns. He also said many Texans who support gun rights, regardless of party, agree that most people shouldn’t have access to assault rifles.

“Most of us understand the responsibility that comes with owning a firearm, and we will vigorously protect that Second Amendment right and also protect the lives of those around us,” he said. “But I think most of us also understand that we should not have military-style weapons used against our fellow Texans. We have four of the worst mass shootings in U.S. history right here in Texas that took place over the last five years.”

O’Rourke also turned the tables on Abbott, accusing him of being the one to promote “extremist” gun policies when he signed the permitless carry bill into law this year allowing most Texans to carry handguns without training or a license.

“What I think you’ll also find is most Texans reject Greg Abbott’s extreme, divisive policies when it comes to firearms, like signing the law for the permitless carry bill,” he said, adding that the bill was opposed by members of law enforcement worried it could endanger officers.

O’Rourke made his iconic gun statement at the third Democratic presidential debate, which fell about five weeks after a gunman went on a shooting rampage at an El Paso Walmart targeting Hispanic people. The shooter killed 23 people in what federal law enforcement classified as an act of domestic terrorism.

The tragedy prompted O’Rourke to suspend his presidential campaign events and anchor himself in the city he represented for six years in Congress and six other years on the El Paso City Council.

O'Rourke told The Atlantic the event changed his approach to the presidential race. And the refrain — "Hell yes" — became a T-shirt and fundraising tool for a presidential campaign that ended several weeks after the debate performance.

Jordan Berry, a GOP political consultant, said O'Rourke is compromised in Texas.

Texans take the Second Amendment "really seriously," he said, adding that his gun stance will "hurt him across the board," particularly with swing voters.

But in 2019, a poll found that there were more Texans who said they supported a mandatory buyback program to turn in all assault weapons than those who opposed it. Nearly half of Texans supported the buyback program, while about 29% said they opposed it, according to a poll by the University of Texas at Tyler. The rest of the respondents either were neutral or unsure.

A University of Texas/Texas Tribune poll from October 2019 found that 59% of Texas voters support a nationwide ban on semiautomatic weapons, compared to 33% who oppose the policy. The approval rating included 86% of Democrats, 56% of independents and 35% of Republicans.

For Joshua Blank, research director for the Texas Politics Project at UT, the idea that O'Rourke is in "grave danger" with Texans on the issue of gun control is overly simplistic.

In fact, Blank said Republicans pushing gun legislation in the first legislative session after the El Paso shooting may have given O'Rourke an "entry point" on the issue.

Some 55% of voters polled in October said they disapproved of a new Texas permitless carry law that allows most Texans to carry handguns without training or a license.

"In a vacuum, Beto's comments certainly create a challenge for him in Texas," Blank said. "But considered in the context of the Legislature passing permitless carry, which has majority opposition, and in the first legislative session after the mass shootings … I think it is a conversation that Beto is willing to have."

Democrats in rural Midland and Taylor counties — both of which supported U.S. Sen. Ted Cruz over O'Rourke in 2018 by about three-fourths of the vote — said they're not turned off by O'Rourke's gun stance.

Midland Democratic Party Chair Cathy Broadrick worked for the federal prison system for 20 years and had to qualify annually to operate a variety of weapons, including the M16, a rifle similar to the AR-15.

While she doesn't look down on gun enthusiasts who want to shoot such weapons — noting the "blood pumping" fun there is to be had — Broadrick said such automatic rifles shouldn't be accessible to all.

"I understand all these people that scream freedom and their constitutional rights," said Broadrick, a self-described country girl who hunted birds. "But if you've ever stood on the firing line and you've shot an M16, you realize the power that that weapon holds."

For his part, O'Rourke said he too grew up in a family of responsible gun owners.

"Most of us grew up with firearms. I did at my house, where my dad kept a gun for protection, where we had guns for hunting, where I was taught how to safely use a gun by my great uncle Raymond, who was sheriff's deputy and the jail captain at the El Paso County jail," he said.

AMERICAN OVERSIGHT

While Broadrick acknowledged that Democrats have debated the wisdom of O'Rourke's comments, she doesn't think his words will damage his political future because she believes few Texans own AR-15s.

The people who supported O'Rourke in his 2018 Senate campaign will still turn out for him this cycle, Broadrick added.

"I think Republicans will try to make an issue of it, but Beto wasn't going to get those voters anyway," she said.

Taylor County Democratic Party Chair Elizabeth Smyser said she hopes Texans interested in solutions to gun violence will have compassion for the spirit with which O'Rourke tackled this issue, noting the suffering he witnessed in El Paso. Smyser said while there may be some single-issue voters on guns that O'Rourke has lost, there is also a sizable "middle ground."

"Those people in the middle that see and have heard the stories of all the gun violence and that are tired of kids getting mowed down in their classrooms or don't want to see Latinos getting targeted again — there are a lot of people that feel that those things are far more extreme than what Beto said off the cuff in a moment of despair," Smyser said.

The rural Democrats said they expect O'Rourke to still be popular among Democrats and other voters in the race.

"The minute I say the word 'Beto,' I know I'm gonna have 200 people show up," Broadrick said. "And in red Midland, Texas, that's substantial — in an area with 80% Republican, mostly, that you can still get a lot of people to turn out."

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Administration News

Carrollton Rep. Michelle Beckley Seeks Democratic Nomination For Texas Lieutenant Governor
By Philip Jankowski
Dallas Morning News

Two-term North Texas state Rep. Michelle Beckley will launch her Democratic campaign for lieutenant governor Tuesday in a bid to challenge a powerful and well-funded incumbent in Republican Dan Patrick.

Beckley, in an interview with The Dallas Morning News, said she will seek to frame Patrick and his "extremism" agenda as a politician more beholden to his powerful donors than to his own convictions.

But before she can face Patrick, Beckley must first clear a field of Democrats. She joins Houston accountant and businessman Mike Collier and former ABC political commentator Matthew Dowd in the race for the Democratic nomination.

Winning will be a challenge as Collier is years ahead in establishing connections with Democrats across the state while Dowd benefits from the national recognition from his appearances on national TV and as an adviser for former President George W. Bush.

However, recent polling shows that a majority of Texas Democrats have not made up their mind about who they will vote for in the primary. That, in part, led Beckley to enter the race.

"The field is wide open," Beckley said. "That is the reality of the situation."

AMERICAN OVERSIGHT

Beckley, 51, said she believes she can gobble up that real estate of undecided Democrats by focusing on her electability and record. Of the three, Beckley is the only one to win an election and the only one who can point to a voting record as proof of her progressive bona fides.

Beckley first won election to the Texas House in 2018 in an election that saw several Republican House seats flip. Beckley's election was enough of a surprise to Democrats that she didn't receive a congratulatory call from the state party until well after her contest was decided because no one had expected a Democrat to have a chance in Denton County, she said.

Flipping the seat immediately made her a high-profile Democrat in the Texas House. Holding it in a difficult 2020 reelection campaign furthered that.

Known as much for her bluntness as the blue streak in her hair, the Carrollton bird shop owner has become a reliable progressive who often leans into her liberalness. The blue streak is gone — "My hair is tired," Beckley said — but the liberal politics remain.

Expanding Medicaid, fully funding public education and legalizing marijuana are among her top priorities. She also said that fixing Texas' troubled electric grid will be one of the centerpieces of her campaign platform.

"The vast majority of voters in general are not happy with what happened in the Legislature," she said. "You've got your bounties on women, you've got a gun free for all. People want Medicaid fully funded. All of these are popular positions that our lieutenant governor does not have because he caters to the furthest right of the right."

Beckley's candidacy for lieutenant governor comes after she suspended a campaign for Congress.

She announced in June that she would challenge Republican Congresswoman Beth Van Duyne while she was still in Washington during the quorum break earlier this year that failed to thwart the Texas GOP's controversial voter integrity laws. The timing of her announcement was somewhat awkward as Democrats attempted to combat the GOP's narrative that they had only fled Austin as a political fundraising stunt.

She ended that campaign after Republicans drew her out of that district as well as her state house district during redistricting.

Winning the March 1 primary will be the first test. If Beckley is successful, she will face Patrick and the $26 million campaign war chest he has amassed, according to the most recent campaign finance reports.

Ed Espinoza, executive director of Progress Texas, said that he was glad to see a woman jump into the race and that he expects the field to grow.

"She has demonstrated that she is a tough candidate that has won tough races," Espinoza said. Winning will "take money and resolve. I don't know what her fundraising ability is. But she certainly brings a lot of resolve to the race."

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Michelle Beckley, One Of The Texas House's Most Liberal Members, Joins Democratic Primary For Lieutenant Governor
By James Barragan
Texas Tribune

Democratic state Rep. Michelle Beckley of Carrollton, who gained national attention for joining lawmakers who fled to Washington, D.C., to block a Republican election bill this summer, is running for lieutenant governor, expanding her party's primary to three contenders.

In her campaign announcement on Tuesday, Beckley said she was running because Republican incumbent Dan Patrick is implementing policies that "hurt Texas business and make life harder for all Texans."

"I'm running for Lieutenant Governor because politicians are putting ideology ahead of results that matter to Texans," she said. "In the last legislative session alone, they worked to limit voters' rights, put bounties on women, marginalize minorities, and make-up false boogeymen in our schools, and the health and wealth of Texans suffered. I'm running to stop them."

Beckley joins a race that already includes political commentator Matthew Dowd and Houston accountant and auditor Mike Collier, who was the Democratic nominee for the position in 2018 and came within 5 percentage points of beating Patrick. She said she was recruited to run for the position but did not say by who.

Beckley said she joined the race to give Democratic voters another option and a candidate with more legislative experience.

"Neither one of those candidates has won an election," she said. "I won an election in a hard district and improved my margins."

Collier has lost two statewide elections. First in 2014, when he ran for state comptroller against Republican Glenn Hegar and again in 2018 against Patrick. Dowd has not sought elected office before but was a political strategist for some of Texas politics' biggest names, including Republican George W. Bush and Democrat Bob Bullock.

Beckley, the owner of a pet shop, entered Texas politics in 2018 when she flipped a traditionally Republican district in Denton County by ousting three-term incumbent Ron Simmons, who had authored the so-called transgender "bathroom bill" in 2017. Her victory was a surprise to many political observers, but Beckley said she plans to use the same shoe-leather approach to winning over voters in the lieutenant governor's race.

Beckley said Republicans will have a fundraising advantage over her, but she plans to raise enough money to get her message out and win over voters.

"I was outspent 10-to-1 my first election. Nobody thought I was gonna win that either," she said. "I've done it before. So I'm confident I could do it again. I wouldn't be running if I didn't think that."

Beckley said her top priorities as lieutenant governor would be expanding Medicaid, fixing shortcomings in the state's power grid and fully funding public education. Those issues are in line with the priorities of the other candidates in the Democratic primary.

But Beckley, one of the most liberal members of the Texas House, is also known for her support for marijuana legalization, abortion rights and her call for more gun control after the 2019 mass shootings in El Paso and Midland-Odessa.

Beckley said she is a candidate who can bring "balance" to the position of lieutenant governor. Issues like marijuana legalization and Medicaid expansion would benefit rural communities whose farmers could benefit from growing marijuana for business and whose struggling hospitals would be helped by a change in the health care system, she said.

AMERICAN OVERSIGHT

But she does not back down from the positions she's taken on immigration, abortion rights and guns, saying she's portrayed as a liberal when she believes her actions are in step with the majority of Texas voters.

"Our state has gone to the extreme and I am the values of the moderate," she said. "In many other states I would not be considered liberal at all."

Beckley said Patrick is "the extreme of the extremes" and puts the interests of his donors ahead of those of average Texans.

"He told people to sacrifice their grandparents for the pandemic," Beckley said, pointing to Patrick's comments early in the pandemic that a failing economy was worse than the coronavirus.

Since her election to the House, Beckley has been a thorn in the side of the GOP majority, often butting heads with the chamber's leadership and vocally opposing their policies in debates and in the press. Former House Speaker Dennis Bonnen derided her as "vile" in a secret recording with a political operative.

Beckley said she doesn't plan to change her combative approach to politics during her statewide race.

"It's a benefit," she said. "The voters know I'm going there to fight for what they vote me in for."

Beckley's blunt talk has sometimes landed her in trouble with her own party. After she was elected to the House in 2018, some Democrats in Denton County accused her of making insensitive racial comments during the campaign trail, when she said the only Spanish she spoke was "tacos and burritos."

Beckley apologized for the comments but denied any racial bias. As her statewide race kicks off, Beckley said she will try to run on her record and not worry about past allegations.

"I've learned that people will say anything they want to about you," she said. "I do have a voting record that is the antithesis of what those unfounded conversations were."

Earlier this year, Beckley announced a run for Congressional District 24 in North Texas currently held by U.S. Rep. Beth Van Duyne, R-Irving. But Beckley suspended her campaign after lawmakers redrew the district to make it much more favorable to Van Duyne. At the same time, Republicans redrew her Texas House district to be more favorable for Republicans.

She considered several other offices, including municipal positions, before landing on running for lieutenant governor.

"They can't draw me out of Texas," she said.

Beckley welcomed former El Paso congressman Beto O'Rourke's entry into the governor's race as a development that could help Democrats down-ballot.

"It's great for the Democratic Party," she said. "He has the infrastructure that we need. He is the strong voice that we need and he will help Texans. He will bring people to the polls."

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State News

Viral Video Shows Crowd At Texas Church Chanting 'Let's Go Brandon' During An Event

AMERICAN OVERSIGHT

By Malak Silmi
Houston Chronicle

A video posted Saturday on Twitter showing a crowd chanting "Let's go Brandon" during an event at Cornerstone Church has been viewed more than 2 million times.

According to the Associated Press, the slogan is a stand in for “F--- Joe Biden” and became popular among Republicans after a post-NASCAR race interview in October. During an interview with NASCAR driver Brandon Brown, the crowd could be heard chanting the vulgar phrase. The reporter, however, believed the crowd was chanting "Let's go Brandon."

The video that emerged from the popular San Antonio church was recorded some time during the three-day "ReAwaken America" conference that took place Nov. 11-13.

On HoustonChronicle.com: Texas AG Ken Paxton gets grilled on Fox News over 'inconsistent' vaccine stances

Among the speakers at the conference was Michael Flynn, the former National Security Advisor to Donald Trump who resigned less than a month into the role because he lied to the FBI about his contacts with Russia.

PatriotTakes, an organization that exposes far-right disinformation, shared the video on Twitter with the caption "The Q-Anon crowd is at televangelist John Hagee’s Cornerstone Church in San Antonio. They are chanting, “Let’s Go Brandon” from the church pews."

A second video posted by PatriotTakes shows that the chants may have been led from the stage and not spontaneously from the crowd.

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Texas State Rep. Ina Minjarez To Run For Bexar County Judge
By Daniel Friend
The Texan

After exploring a bid for over a month, state Rep. Ina Minjarez (D-San Antonio) officially launched her campaign for Bexar County judge on Monday, forgoing reelection to the Texas Legislature.

“Over the course of my career, I have worked to support working families, small businesses, seniors — our everyday neighbors,” said Minjarez in a video. “This year alone, I worked to bring our community over one million dollars in funding to our higher education institutions, library services, the children’s courts, local infrastructure projects, and economic growth programs that have helped veterans and local businesses in Bexar County”

Minjarez was first elected to House District (HD) 124 in the Texas House of Representatives in April 2015 during a special election and was sworn in shortly before the end of the 84th Regular Legislative Session.

Her decision to run for the top executive position in Bexar County comes after the current county judge, Nelson Wolff, decided not to seek reelection.

Had she sought reelection to her state House seat, Minjarez would have had more of an upper hand than in previous years, as redistricting left her district slightly more Democratic.

The Texas Partisan Index rating — a metric based on election results in 2018 and 2020 — for HD 124 shifted from a seat where Democrats carried about 65 percent of the vote (D-65%) to D-68% after the new maps were signed into law.

HD 124 covers the southwestern portion of San Antonio and includes Lackland Airforce Base.

Minjarez's retirement from the legislature follows a wide swath of her colleagues who have done the same.

A list of the open seats in the state legislature can be found on The Texan's 2022 Election War Room.

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Education

Texas Education Board Considers How Middle Schools Teach Climate Change And Sexuality As Officials Fight Over Library Books
By Brian Lopez
Texas Tribune

When the 15 members of the State Board of Education meet at its regular quarterly meeting this week, the elected group is expected to talk about how climate change and sexuality are taught to middle school students. It's part of a regular process that takes place every eight years.

But there's another topic not on the agenda that at least one board member says needs to be discussed, and that's how much say the board has about what goes on a school's library shelf.

Last Monday, Gov. Greg Abbott called on both the Texas Education Agency and the state education board for the removal of books with "overtly sexual" content in school libraries and to develop standards for what gets into libraries. The governor chimed in after state Rep. Matt Krause, a Fort Worth Republican, launched an investigation into certain school districts over the types of books students can access.

Ever since Krause published a list of around 850 books — most of which are about race and sexuality — and began asking districts if they had them on the shelves, the question of who polices nontextbooks available in schools has been unresolved. The Texas Association of School Boards says the decision is one local schools make.

But at least one state board of education member, Pat Hardy, who represents Tarrant and Parker counties as well as part of Dallas County, says the board needs more clarity on what role the board has in these decisions.

"Don't just throw the hot potato our way and say 'Y'all take on that responsibility,'" she said.

Last week, Keven Ellis, education board chairperson, said Texas public school families "should have the reassurance that their children are not at risk of being confronted with pornographic and obscene material when they are in school."

But exactly what form that reassurance takes is unclear.

The state board typically works on standards that textbook publishers need to meet. But as they take up science and health standards this week, some similar topics that concern parents — and lately, lawmakers — will be surfacing, primarily about sexuality.

AMERICAN OVERSIGHT

Last year, the board approved expanding the state's seventh- and eighth-grade health and sex education curriculum to include forms of birth control beyond abstinence and education about sexually transmitted infection. However, the Republican majority board once again fell short of being more inclusive of the LGBTQ community, rejecting pushes to include lessons on sexual orientation, gender identity and consent.

At least one of the 13 textbooks that the State Board of Education will consider contains supplementary materials that touch on those topics — although teachers are not required to teach them. Once approved, they would then be available for school districts to adopt.

Dan Quinn, a spokesperson for the left-leaning Texas Freedom Network, said allowing this book to be adopted by school districts will give teachers a tool to talk about these topics.

Quinn's group believes the board must revise its health curriculum to include those topics. The board will meet from Tuesday through Friday.

"This vote really is a test for whether the state board of education in Texas has moved past the culture wars and the political circuses," Quinn said.

Hardy said she'll have a hard time voting for a textbook that includes things that aren't in the state-approved standards. Hardy said parents have the option to teach their children about things that aren't in the state-approved standards.

"The standards we chose reflect what we heard from parents as to what they wanted," Hardy said.

The state board is also set to vote on new science standards for middle schoolers with the most attention being drawn to what eighth graders are learning about climate change, Quinn said.

The last time the state board adopted new science standards in 2009, the chair at the time said climate change was a "bunch of hooey." Over a decade later, the current board made changes to its high school curriculum last year with climate change being addressed in some high school courses and now moves to do the same in middle schools.

Under the proposed eighth grade science guidelines, students are expected to learn how "natural events and human activity can impact global climate." For Quinn and scientists, that's where the problem lies. Human activity and natural events do, have and will continue to impact global climate. There is no "can," he said.

Hardy said she likes the way the climate change standards are currently worded as she wants children to learn both the good and bad that come from fossil fuels — such as how it has elevated and supported the Texas economy.

On Nov. 4, climate scientists across the state sent a letter to the state board urging that they revise the proposed curriculum to reflect that human activity such as the release of greenhouse gases have affected the climate.

"Teaching about climate change doesn't just prepare students to succeed in college-level work if they choose to further their education after high school," wrote Andrew Dessler, professor of atmospheric sciences and the Reta A. Haynes chair in geosciences at Texas A&M University. "It also helps students become informed voters who understand the stakes and can make responsible decisions as we work together to find real solutions to the problem."

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Energy

Permian Basin Roars Back To Life, With Oil Output On Track To Set A Record In December
Dallas Morning News

Oil output in the Permian Basin is projected to hit a record as the largest U.S. shale patch leads the recovery in domestic production from its COVID-19 induced slump.

Supplies from the prolific oil field of West Texas and New Mexico are set to increase to 4.95 million barrels a day in December, according to a U.S. government report Monday. That surpasses the record set in March 2020, right before the pandemic wreaked widespread demand destruction globally, triggering production shutdowns and bankruptcies across the U.S.

Crude supplies from the basin now exceed that of each OPEC member except Saudi Arabia, underscoring the Permian's ascendancy to its role as a globally important swing producer. Its bounce-back has been driven by low break-even costs, and the largest U.S. drillers are almost exclusively focusing their limited domestic plans for expansion on the sprawling oil patch, at the expense of other shale basins. Total U.S. output is still a long way off from a full recovery.

One reason drillers aren't incentivized to boost output in other basins is because most market observers estimate that the global oil market will become oversupplied next year. Last week, the Energy Information Administration projected that global oil supply is set to average 101.42 million barrels a day in 2022, while worldwide demand is seen at 100.88 million barrels a day.

Still, record Permian output won't be enough to significantly reduce oil prices in the near future as long as overall demand continues to outpace supply.

Production in the Bakken in North Dakota and the Eagle Ford in South Texas are both still down from pre-pandemic levels. Output in other shale regions is set to rise modestly with gains ranging 2,000-5,000 barrels a day, the agency said.

The backlog of oil wells that have already been drilled and are waiting to be fracked, known as DUCs, have sunk to the lowest volume since 2014, the agency said in its Drilling Productivity Report.

But U.S. oil explorers are making more money than at any time since the shale revolution began over a decade ago, according to Deloitte LLP. And this may just be the beginning. Free cash flow, the key metric watched by investors, probably will increase by 38% next year, presuming oil prices remain elevated, according to Bloomberg Intelligence.

After effectively subsidizing consumers through the 2010s with break-neck drilling that depressed global oil prices, the shale industry appears to have struck a winning formula: moderating production, limiting reinvestment in new wells and shaving debt. Crucially, executives now understand that any output growth must be carefully measured, and not take market share from OPEC and its allies, for fear of sparking repeats of the bruising price wars of 2014 and 2020.

"Public-company investors just don't want to see companies spend a ton of money only to slam the price," said Nick O'Grady, chief executive officer of Northern Oil & Gas Inc. "It becomes self-defeating. And that's the experience of public investors for the last 10 years."

AMERICAN OVERSIGHT

Publicly traded companies are unwilling to budge from austerity programs popular with investors.

“Our investors want cash back,” Scott Sheffield, CEO of Irving-based Pioneer Natural Resources, said on Bloomberg TV this month.

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Business/Economy

Texas Born Cookie Delivery Service Tiff’s Treats Is Now Worth $500 Million
By Dom DiFurio
Dallas Morning News

Cookie delivery service Tiff’s Treats is now worth $500 million after the completion of a recent $30 million funding round, the Austin-based company announced today.

The company began in Leon Chen’s Austin apartment in 1999 when he and Tiffany began dating while attending the University of Texas. The founders moved the company into its first real kitchen space in 2000, and have been opening locations across the state ever since.

The second-ever Tiff’s Treats location opened was in downtown Dallas in 2006, and the company expanded outside of its home state for the first time in 2016. The company now has 70 retail distribution centers across the southern U.S. and employs 1,700 workers. It’s sold more than $200 million warm cookies to date.

The company plans to invest the $30 million it raised in continuing its national expansion and development of its e-commerce platform.

“We continue to invest in our direct-to-consumer, on-demand gifting and delivery platform from the ground up, resulting in a best-in-class giving and receiving experience for customers,” cofounder Leon Chen said in a statement Tuesday. “With our technology, we manage the entire delivery experience, utilizing our own delivery drivers and highly-committed in-house customer service team. We are focused on our mission to connect people through warm moments. Warm cookies are the vehicle, but our purpose is much bigger than that.”

The company just opened a Kessler Park location in August, its 17th in the Dallas area. And the Chen’s are releasing their first book early next year which will delve into the couple’s last two decades of entrepreneurship.

Tiff’s has had a number of high-profile Texas figures and celebrities invest in the company over the years including former Dallas Mayor Mike Rawlings, Dirk Nowitzki and Kendra Scott.

“Every day we are lucky to be an integral part of some of the most significant moments in people’s lives, fulfilling our mission of connecting people through warm moments,” cofounder and president Tiffany Chen said.

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Welcome To Musklandia: Austin Adjusts To Life With Tesla And Its Eccentric Billionaire Boss Elon Musk
By Kara Carlson
Austin American Statesman

AMERICAN OVERSIGHT

Welcome to life in Musklandia.

As Elon Musk's sphere of influence in Austin and across Texas seems to expand by the day, the eccentric Texas-based billionaire is taking the region and the state along on the wild and often weird roller-coaster ride that is his life.

It's been a little more than a month since Musk announced Oct. 7 that Tesla is moving its headquarters to Austin, but even before that, Musk was already spending an increasing amount of time in Austin. He has been moving more of his companies into the region since at least 2020, most notably with Tesla's $1.1 million manufacturing facility currently being built in southeastern Travis County.

Construction crews work on the $1.1 billion Tesla facility in southeastern Travis County in October.
As Austin becomes ground zero for all things Musk, that leaves the rest of us figuring out how to navigate the new landscape — good, bad and odd.

"Musk is a modern-day Albert Einstein in the eyes of many, and the richest person in the world by a wide margin. He's going to bring a lot more limelight and focus on Austin," said Dan Ives, an analyst with Wedbush Securities.

Musk and Austin are likely to become inextricably linked in the coming years, Ives said.

"When the average person in the world thinks Austin, Texas, they're not going to the music festival or Dell or for the great city it is. Tesla and Elon Musk are going to become synonymous with Austin," Ives said.

Roger Kay, an analyst with Endpoint Technologies, said Musk's status and personality are sure to have an impact on Central Texas.

"He's the richest guy in the world, which is interesting. So what he'll do immediately is upstage (Dell Technologies founder and CEO) Michael Dell, at least on that," Kay said. "Michael has been the kind of king of Austin, I would say, all up until this point."

Expanding presence
While the $1.1 billion Tesla manufacturing facility and Tesla's planned headquarters move to Austin have drawn the most attention, Musk's ventures have been quietly expanding in Central Texas for some time now. They include Musk's tunneling and infrastructure company, the Boring Co., which has facilities in Pflugerville and Bastrop; a potential SpaceX expansion somewhere in Austin; a potential Neuralink office; and the headquarters of his private foundation, the Musk Foundation.

Also, a Tesla subsidiary, Tesla Energy, was recently licensed to operate as an energy provider in Texas, according to documents filed with the Texas Public Utility Commission. The company is already building the first Tesla solar neighborhood in Austin, called SunHouse at Easton Park, with solar- and alternative-powered energy.

Meanwhile, SpaceX — Musk's aerospace and rocket company — has multiple facilities around Texas, including a launch site near Boca Chica in far South Texas.

What's not clear is whether Musk has a residence in Austin. Although various media outlets have listed Austin as his home, he has never publicly confirmed that. Musk announced last year that he had moved to Texas but said his main residence is a small home near Boca Chica on the SpaceX campus.

Whether Musk actually lives in Austin or not, his influence in and impact on Central Texas can't be denied.

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Kay said the influx of Tesla and other Musk-related companies will lead to higher salaries in the local tech industry, as well as add to the region's already booming housing market and send real estate prices even higher.

"For some people there will be good opportunities. Other people," Kay said, "are going to be irritated."

'Most powerful voice in the world'
One of the places where Musk has drawn the most attention — and perhaps created the most irritation — has been on social media. Musk is active on Twitter, where he has more than 63 million followers.

With his immense wealth and such a huge audience, the influence of what Musk posts on social media shouldn't be downplayed, Ives said.

Eccentric Tesla CEO Elon Musk recently became the first person in history with an estimated net worth of more than $300 billion.

"He is one of, if not the most powerful voice in the world in terms of social media and a following," Ives said. "If Musk talks, everyone's listening. When you're on the right side of that, it's great. When you're on the wrong side of that, it's a lot of downsides."

Few days go by without Musk making some sort of headline on social media, whether it be for company news, cryptic personal statements, political commentary or just posting a meme.

One example was early last week, as after polling his Twitter followers on whether he should sell 10% of his Tesla stock, Musk sold about 900,000 shares, netting over $1.1 billion. His trust also sold more than 3.5 million shares worth $3.88 billion. The stock options that were sold would expire next year and still leave Musk with about 170 million Tesla shares.

More sales later in the week, from both Musk and his trust, have brought the total stock sold to 6.4 million shares, worth a total of $6.9 billion. The sales so far amount to less than 4% of the shares he holds.

Ives said that while a sale of some stock has been expected to pay upcoming taxes, holding a Twitter poll to sell the stock is "another soap opera that can only happen to one company and one CEO in the world, Musk."

Here are a few more highlights and lowlights from Musk on social media in the past month:

- Over the weekend, he clashed with U.S. Sen. Bernie Sanders on Twitter after the former presidential candidate from Vermont said the extremely wealthy should pay their fair share. Musk tweeted: “I keep forgetting that you’re still alive,” and later added, “Want me to sell more stock, Bernie? Just say the word …”
- He criticized Tesla co-founder Martin Eberhard, with whom he has feuded for years, on Twitter. He claimed to "wish he never met" the co-founder, whom he considers the "worst person I’ve ever worked with in my entire career,” and said that Eberhard “came damn close to killing Tesla.”
- He tweeted a crass comment at Oregon Sen. Ron Wyden after the politician tweeted in support of a billionaires income tax and said Musk paying taxes shouldn't be dependent on a Twitter poll.
- He temporarily changed his Twitter name to Lord Edge, likely a reference to the phrase “edge lord.”
- He tweeted a joke that he was considering starting a new university in Texas, whose name could be used to form a rude acronym.
- He acknowledged on Twitter that Tesla's self-driving was having software issues and announced that an update would be rolled back after Tesla owners reported cars behaving erratically.

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- He pushed back on President Joe Biden's proposed tax plan, dubbed the Billionaires Income Tax, which would add a tax on the assets, not income, of billionaires. "Eventually, they run out of other people's money, and then they come for you," Musk tweeted on the same day he gained $36 billion in personal wealth from the Tesla stock surge.
- He called Biden a "puppet" for the United Auto Workers union and pushed back on his plan for electric-vehicle purchase tax credits proposed in the president's infrastructure bill. The plan would exclude nonunion automakers, such as Tesla.
- He exchanged tweets with David Beasley, director of the U.N.'s World Food Program, who urged Musk to donate 2% of his estimated net worth, or about $6 billion, to help fight world hunger. Musk said if the program laid out a detailed plan for how exactly the $6 billion would be used and the donation went through open source accounting, he would donate. Beasley said that was possible, and he would meet him anywhere, "earth or space," to discuss further. No donation has been made.

While most of that social media activity hasn't focused directly on Austin or Texas, there are signs Musk is starting to take more of an interest in what's going on in the Lone Star State.

'Going to be some ruffled feathers'

When Musk announced he was moving Tesla's headquarters to Austin, he didn't mention previous clashes he'd had with California officials. However, industry analysts say that while Austin is more affordable than Silicon Valley and still has the tech and engineering talent Musk needs for his companies, it seems clear he decided he preferred Texas' more business-friendly environment over California's more regulation-heavy approach.

"I think Musk selected Texas in particular because of its kind of frontier style. He's always thought that California's heavy regulatory environment was not particularly conducive to his style," Kay said. "He's made it really clear that he doesn't think public authorities have any business telling him what to do."

All of which means officials in Texas — and in Austin — could eventually find themselves getting the same pushback California did from Musk if regulatory conditions rub him the wrong way.

Musk tends to do what he wants and is clever and aggressive in how he goes about disputes, Kay said. At the same time, he will bring a lot of jobs and tax revenue to the region, which gives him cards to play.

"He'll say, 'Well, listen, you want me to just pick up stakes and go to Mississippi?'" Kay said. "There's probably going to be some ruffled feathers there when he says, 'It's my way or the highway and now I own your highway, You can't say anything about it. You do — well, then I'll bring all my resources to bear upon you.'"

It remains to be seen how Musk might aim to influence state or local policymaking.

In September, Gov. Greg Abbott said that Musk supported Texas' social policies. In response, Musk tweeted: "In general, I believe government should rarely impose its will upon the people, and, when doing so, should aspire to maximize their cumulative happiness. That said, I would prefer to stay out of politics."

However, Musk has weighed in on some Austin political issues already.

"Austin should be its city, not a San Francisco copycat," Musk said in a Halloween tweet replying to a tweet about Proposition A, which didn't pass earlier this month. The proposition would have required the city of Austin to hire hundreds more police officers.

Whatever positions Musk takes, they are sure to have influence in Austin, across the state and globally, Ives said — in large part because of Musk's immense wealth and the power that affords him.

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Musk recently became the first person in the Bloomberg Billionaires Index to have an estimated net worth of more than $300 billion, making him not only the wealthiest person in the country but also the richest person in history. Musk's current estimated net worth is somewhere between $280 billion and $300 billion.

Having Musk and Tesla here comes with "exponentially more positives than negatives for Austin," Ives said. "But Austin has to embrace Tesla and Elon, and not just treat him like any other business person. There are 300 billion reasons he's not."

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Immigration/Border Security

Group Of 225 Migrants Apprehended In West Texas Border Town
By Bob Price
Breitbart

Del Rio Sector Border Patrol agents apprehended a large group of migrants who illegally crossed near Eagle Pass, Texas. The group of 250 is part of an increasing number of migrants apprehended in the Eagle Pass Station area of responsibility.

“The station is averaging over 500 apprehensions per day so far this month, making Eagle Pass the new hot spot for Del Rio Sector,” Del Rio Sector Border Patrol officials tweeted. “We continue to adjust operations with our constant focus on national security.”
Border Patrol officials previously stated that human smugglers utilize large groups, like this group of 250 migrants, to tie up law enforcement assets in the area in order to run drugs or so-called “high-value” migrants into the U.S.

In September, Haitian migrants make the Del Rio Sector and the city of Del Rio, Texas, the new ground zero of human smuggling activity along the U.S.-Mexico Border. Del Rio Sector officials say that with 500 migrants being apprehended per day, Eagle Pass is now that center of activity.

Over the weekend, Eagle Pass Station agents apprehended more than 1,600 migrants.

During the month of October, the first month of the new fiscal year, Del Rio Sector agents apprehended 28,073 migrants, Breitbart Texas reported. This represents an apprehension rate of about 900 migrants per day. Now, Eagle Pass Station agents alone are apprehended about 500 per day.

These apprehensions are part of the nearly 160,000 migrant apprehensions in October detailed in a leaked Border Patrol document reviewed by Breitbart. This is up by 129 percent from the previous October report.

A source within U.S. Customs and Border Protection speaking to Breitbart under the condition of anonymity said that of the more than 158,000 migrants apprehended in October, only 59,000 were returned to Mexico under the Title 42 coronavirus protection protocol put in place by the Centers for Disease Control and Prevention under the Trump administration.

Nearly 100,000 migrants required longer detention in temporary holding facilities while awaiting processing for delayed removal under the order or in the case of more than 60,000 migrants, release into the United States.

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Abbott Shares Barbed Wire Fencing Photos To Tout Border Wall Progress In South Texas
By Hayden Sparks
The Texan

Months after promising a Texas wall on the border with Mexico, Governor Greg Abbott tweeted two images on Friday depicting barbed wire fencing and heralded the barrier as part of the state's efforts against illegal immigration.

"Construction of strategic fencing continues along the Texas-Mexico border. Miles of razor wire is being used to repel illegal immigrant crossings into our state," Abbott wrote. "Progress is being made on our border wall. Texas is securing the border."

The tweet included an image of rolls of barbed wire fencing and another image of a completed chain-linked fence with barbed wire perched at the top facing both directions. In the second photograph, a male construction worker in a yellow vest is accompanying a convoy of front-loaders traveling parallel to the fence.

Abbott launched the border fence project in June after the end of the 87th legislature's regular session. The border wall has received hundreds of millions of dollars of state funding and donations, including a donation in excess of $53 million from Timothy Mellon, a Wyoming billionaire with a history of supporting GOP candidates.

Mellon's grandfather was the late Treasury Secretary Andrew M. Mellon.

The Texas legislature provided an additional $1.02 billion in border security funding during the second called session, most of which was for the border fence.

Both Republicans and Democrats supported the additional border fence funding, though some lawmakers pushed back on the idea that the border is a disaster area that requires an influx of spending on security.

President Biden stopped construction on the federal government's border wall almost as soon as he took office in January. However, Chris Magnus, the Arizona police chief Biden has nominated to lead U.S. Customs and Border Protection, stated in a hearing that he was open to resuming a part of the border wall if it was prudent.

There were more than 1.15 million apprehensions of illegal aliens in Texas border patrol sectors in Fiscal Year 2021, not including the estimated number of people who evaded custody, which could be up to two or more individuals per arrest.

All three of Abbott's challengers in the Republican primary, Chad Prather, Don Huffines, and Allen West, have made border security a key issue in their campaigns. In fact, in the first few weeks of his candidacy, Huffines touted the endorsement of Uvalde Mayor Don McLaughlin.

When he backed Huffines in May, McLaughlin called Abbott a "fraud" and noted that schools had to be shut down in Uvalde due to illegal immigration threatening the safety of the town, which is near the southern border.

Abbott's GOP opponents have criticized him for failing to reduce illegal crossings and have made campaign pledges to introduce more stringent policies and be more confrontational with the federal government on the issue.

While border security is primarily a federal responsibility, Abbott ramped up the state's border response in March with an effort known as Operation Lone Star, which has resulted in the arrests of tens of thousands of illegal aliens and the seizure of thousands of pounds of narcotics.

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In a statement to The Texan on Monday, Department of Public Safety (DPS) Press Secretary Ericka Miller provided the most recent statistics for Operation Lone Star, which are current through November 11.

"Since Operation Lone Star began, DPS has made 9,162 criminal arrests, including 1,864 for criminal trespassing. There have also been 7,230 felony charges filed. In addition, DPS has made more than 77,500 migrant apprehensions and referrals, and there have been 929 vehicle pursuits," Miller wrote.

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Feds Arrest Nine Suspects in Smuggling Incident Near Del Rio That Killed Eight People
By Hayden Sparks
The Texan

Nine Texans and an individual from Ohio are facing life sentences for their alleged roles in a human smuggling operation that resulted in the deaths of eight people and the serious injury of several others, the United States Department of Justice (DOJ) stated last week.
According to a press release, a Texas Department of Public Safety (DPS) officer attempted to stop 25-year-old Sebastian Tovar of Toledo, Ohio, while he was driving a Dodge Ram in the Del Rio area on March 15.

A chase ensued that ended with Tovar colliding with oncoming traffic, killing eight people and seriously injuring another in his vehicle. All nine individuals Tovar was transporting were illegal aliens. Two American citizens not inside Tovar's truck were also injured, per the DOJ.

"After the crash, U.S. Border Patrol (USBP) agents encountered a Ford F-150 stopped in traffic near the crash site. USBP agents directed the Ford to turn around and subsequently all occupants of the Ford fled the vehicle, absconding into nearby brush," the press release stated.

"USBP agents were able to locate 12 undocumented noncitizens who bolted from the Ford. After interviewing two of the undocumented noncitizens, USBP agents determined that the occupants of the Dodge and Ford were part of a human smuggling operation that was illegally transporting 20 undocumented noncitizens in the U.S."
The government indicated that Tovar, 33-year-old Nicolas Mondragon-Gonzalez of Austin, 34-year-old Veronica Torres-Mendez of Austin, 40-year-old Jennifer Davis of San Antonio, 19-year-old Ruben Rodriguez-Jaimes of Bastrop, 32-year-old Lauren Malmquist of Round Rock, and 23-year-old Eduardo Benitez of Bastrop are charged with one count of transporting illegal aliens resulting in death. If found guilty, they face sentences of life imprisonment.

Tovar is also looking at one count of transportation of illegal aliens resulting in serious bodily injury and one charge of conspiracy, for which he could be sentenced to 20 years each.

29-year-old Marco Hernandez of Paige and 21-year-old Jose Rodriguez of Austin, in addition to everyone else charged, are accused of up to several counts of transporting illegal aliens. They face up to ten years in prison on each of those counts.

Hernandez is the only defendant named in the 11-count indictment who authorities had not yet taken into custody as of Tuesday, according to the DOJ.

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O'Rourke's Bid For Governor Means Abbott Will Be Forced To Campaign To The General Electorate
By Erica Grieder
Houston Chronicle

It's official: Texas Democrats have a candidate for next year's gubernatorial race.

A credible candidate, too, in former Texas congressman Beto O'Rourke, who came within 3 percentage points of unseating U.S. Sen. Ted Cruz in 2018.

The El Paso Democrat made the long-awaited announcement on Monday morning. He also released a list of planned campaign events, which will take him through south Texas this week for meetings with organizers, health care workers and law enforcement officers, and to Houston on Friday evening, for a campaign kickoff rally.

"I'm running for governor, and I want to tell you why," O'Rourke said in his launch video, on YouTube. "This past February, when the electricity grid failed, and millions of our fellow Texans were without power — which meant that the lights wouldn't turn on, the heat wouldn't run, and pretty soon their pipes froze and the water stopped flowing — they were abandoned by those who were elected to serve and look out for them."

It's a strong opening salvo, and one that illustrates why Gov. Greg Abbott, a Republican, can't be thrilled about O'Rourke's announcement.

On HoustonChronicle.com: What you need to know about Beto O'Rourke as he challenges Texas Gov. Greg Abbott

"I welcome the challenge," Abbott said in response to the announcement, which came as he was in south Texas for a press conference with state Rep. Ryan Guillen, a Democrat who is switching parties to join the GOP.

Certainly, Republicans are full of bravado, citing President Joe Biden's sinking approval ratings in Texas, as well as O'Rourke's mixed track record at the polls.

While O'Rourke won three congressional races and then stunned political observers with his strong showing in 2018, he came up short in his Senate bid, then dropped out of the 2020 presidential race before voting began.

In the aftermath of two August 2019 mass shootings in Texas—one inside a Wal-Mart in his hometown of El Paso, the second in Midland and Odessa—he declared his support for a mandatory buyback program for assault weapons. Those are comments that you can expect to hear on a loop and divorced from context for the next 12 months.

But behind this GOP bravado is, surely, some recognition of the facts. Any race is in some sense a referendum on the incumbent, and Abbott is much more vulnerable than he was four years ago when he beat Democrat Lupe Valdez, a former Dallas County sheriff, by nearly 13 points.

Since 2018, we've seen more than 70,000 Texans die due to the COVID-19 pandemic — a scourge for which Abbott mandated a largely hands-off approach. We also saw some 200 hundred Texans die, in February, due to the failure of our statewide electricity grid, which has yet to be fixed. This year alone, Abbott has pursued a far-right agenda that has led to passage of a near-total abortion ban and new restrictions on voting rights (O'Rourke was an outspoken critic of the latter). There have been attacks on transgender children, and, more recently, an attempt to ban books at school libraries.

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O'Rourke obviously has more baggage than he did four years ago, when he emerged from relative obscurity like a bolt of lightning. Democrats in 2018 rode a wave of dissatisfaction with President Donald Trump to success at the polls.

But the same could be said of Abbott, a two-term governor with a record he must defend — and which O'Rourke plans to highlight via contrast ads, he tells the Texas Tribune's Patrick Svitek.

Recent polls suggest that O'Rourke will give Abbott a run for his money; While Abbott enters the race as the favorite — a Democrat hasn't won a statewide election in Texas since 1994 —the well-known and energetic O'Rourke can force the governor to defend his record to voters who turn out next year: Republicans can't be thrilled about that prospect.

Incidentally, there's another clear upside: We presumably can stop talking about Matthew McConaughey now, right?

This is no disrespect to the Academy-Award winning actor and author, who seems like a genuinely nice person. But good Lord, he's had Texas political observers gnashing their teeth since expressing some interest in next year's gubernatorial race.

"I'm actually trying to look at the idea and give it serious consideration," McConaughey said in April. As well he might; polls have found him leading Abbott in a hypothetical matchup.

But he hasn't subsequently engaged much with the Texans who have been in the trenches battling state government over the past year. In an interview with Kara Swisher of the New York Times last month, he was equivocal about Texas's new abortion law and its citizen enforcement clause — "feels a little juvenile in its implementation" — and demurred outright when asked about the state's highly controversial "election integrity" measure, Senate Bill 1.

"You know, I don't know enough about that to be able to discuss the details on how I feel about that," McConaughey said.

But he added, "I think it should be easier to vote."

To be clear, McConaughey — or anyone else — still has time to jump in. The filing deadline for candidates is Dec. 13. And, for that matter, there's no guarantee that O'Rourke will end up in a one-on-one showdown with Abbott. The governor is facing a primary challenge from two candidates to his right, former state Sen. Don Huffines and former Texas GOP chair Allen West.

But with O'Rourke's announcement, the stage is set for a likely showdown between him and Abbott — one that will put both men to the test, decide whether Texas continues on its increasingly conservative course and again turn a national spotlight on Texas.

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Greg Abbott News

Why Gov. Greg Abbott V. Beto O'Rourke Is A Rare Heavyweight Battle In Texas Politics
By Jeremy Wallace
Houston Chronicle

Democrat Beto O'Rourke announced Monday that he will challenge Gov. Greg Abbott in his bid for re-election, setting up a heavyweight battle for governor that is unlike anything Texas has seen in decades.

"I'm running to try to help bring this state together," O'Rourke said. "To do the really big things that are before us right now and to get past the divisiveness, the extremism and the real small politics and policies of Greg Abbott."

No Democrat has won a governor's race in Texas since Ann Richards in 1990. But O'Rourke brings star power that Democrats have lacked. He has strong name recognition and has proven fundraising muscle, having raised a record $79 million in a narrow loss to U.S. Sen. Ted Cruz in 2018.

In taking on Abbott, O'Rourke is challenging perhaps the most powerful Republican in the state. Abbott, a 64-year-old native of Wichita Falls, has won seven straight statewide campaigns for office dating back to 1996 and had amassed over $50 million for his re-election.

At a political event in Floresville on Monday, Abbott called O'Rourke too liberal for Texas, an argument the governor was making with 30-second ads even before O'Rourke made up his mind to run.

HOW DID BETO O'ROURKE GET HERE?

WHY HE'S A CONTENDER: O'Rourke emerged on the statewide political map during his 2018 campaign for Senate, when he raised nearly $80 million. The core of his campaign was decrying the pettiness and partisanship in American politics and pitching himself as someone who'd be able to work across the aisle: "We can be defined by our fears or we can be known by our ambition and aspirations." A key to that campaign was visiting all 254 Texas counties, including heavily Republican areas where he would not win even 5 percent of the vote. Those travels helped give him national attention, leading to TV interviews on "The Ellen DeGeneres Show," "The Late Show with Stephen Colbert" and with Oprah Winfrey.

SERVICE IN CONGRESS: O'Rourke served six years in the U.S. House representing his hometown of El Paso from 2013 to 2019. Possibly his hallmark achievement was legislation expanding mental health care for military veterans even if they received a less-

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than-honorable discharge, an idea that was an outgrowth of El Paso having one of the highest suicide rates for veterans.

ROOTS: O'Rourke grew up in a wealthy, politically active family, His father was an El Paso county commissioner and was the county judge for four years. After O'Rourke attended a private, all-male boarding school in Virginia, he attended Columbia University where he earned a bachelor's degree in English. After college, he was a bass player in a punk music band before later returning to Texas. In 1998, at just 26 years old, he helped launch a technology firm called Stanton Street Technology Group.

START IN POLITICS: O'Rourke built his career on beating incumbents. First in 2005, O'Rourke defeated an incumbent city councilman in El Paso. Then in 2012, O'Rourke challenged incumbent Congressman Silvestre Reyes in a Democratic primary. O'Rourke won and served three terms in the Democratic minority in the House.

TEXAS GOVERNOR'S RACES SINCE 1994

2018
Greg Abbott, Republican 56%
Lupe Valdez, Democrat 43%

2014
Greg Abbott, Republican 59%
Wendy Davis, Democrat 39%

2010
Rick Perry, Republican 55%
Bill White, Democrat 42%

2006
Rick Perry, Republican 39%
Chris Bell, Democrat 30%
Carole Keeton Strayhorn, Independent 18%
Kinky Friedman, Independent, 12%

2002
Rick Perry, Republican 58%
Tony Sanchez, Democrat 40%

1998
George W. Bush, Republican 68%
Gary Mauro, Democrat 31%

1994
George W. Bush, Republican, 53%
Ann Richards, Democrat 46%

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“We talked earlier about the values that Texans share, and if you look at issue after issue after issue that Beto campaigned on for presidency of the United States, they weren’t just at odds with Texans — they were hostile to Texans,” said Abbott, who is seeking a third term.

The 1994 election, when George W. Bush beat Richards, was the last governor’s campaign with the “sizzle and pop” of what is setting up in 2022, said Cal Jillson, a political science professor at Southern Methodist University in Dallas.

“This is what we have all been waiting for,” Jillson said.

What makes the race so special is that O’Rourke is without question the best known and best fundraiser among Texas Democrats — and nearly the same can be said of Abbott among Republicans. For the past 26 years, the former Texas Supreme Court justice and Texas attorney general has blown out every opponent, whether in a primary or general election.

Since Bush beat Richards, no Democrat running for governor has won even 43 percent of the vote. In 2010, former Mayor Bill White was a substantive candidate against then-Gov. Rick Perry but didn’t have the fundraising and energy that O’Rourke brings to the table, Jillson said.

The recent past has shown that money alone won’t do it in Texas, which has 20 media markets. In 2014, Democrat Wendy Davis was a big fundraiser, but she couldn’t crack 40 percent against Abbott in his first race for governor.

“It’s not just luck” that Abbott hasn’t had a competitive race in more than 25 years, Jillson said. A lot of work goes into building a machine that stops would-be challengers from emerging.

But O’Rourke has built a political career of beating established incumbents, starting with races for the El Paso City Council in 2005 and for Congress in 2012. Though he started his 2019 campaign for the White House as an early front-runner, O’Rourke’s polling and fundraising tanked after Joe Biden jumped into the race.

Before Abbott and O’Rourke can face off, they need to get through the primary elections set for March 1. Abbott is facing at least two significant GOP primary opponents in former Texas GOP Chairman Allen West and former state Sen. Don Huffines. They have been attacking Abbott for not being conservative enough during his two terms as governor.

Who will run against O’Rourke in March is still being determined. Candidates have until Dec. 13 to get on the ballot for the primary.

Oil, guns and governance

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O’Rourke’s challenge comes as Democrats inch closer to Republicans in long-red Texas, thanks to surging voter registrations and Republicans losing ground in the state’s biggest cities. After O’Rourke’s close call in 2018, Biden came within 6 percentage points of beating former President Donald Trump for Texas’ 38 Electoral College votes. It was the closest a Democrat has come to beating a Republican for president in Texas since Jimmy Carter won the state in 1976.

In an interview with the Houston Chronicle, O’Rourke, 49, said he will call for expanding Medicaid to cover more of the working poor, improving schools and fixing the Texas power grid so there will not be a repeat of February’s winter storm that left millions without electricity.

“He’s done a lot of damage to this state,” O’Rourke said. “He’s taking Texas in the wrong direction. The people of Texas understand that. So my challenge, and my opportunity, is to present the alternative.”

Abbott is already on the campaign trail, championing the oil and gas industry that powers the Texas economy and provides 200,000 jobs in drilling alone, not counting refineries and pipelines. He’s pledged to finish Trump’s border wall in the state, and this year he signed into law a measure allowing unlicensed Texans to carry concealed handguns in public.

Abbott has made clear that guns will be a big piece of his debate with O’Rourke. During a campaign stop in Corpus Christi last week, he told the crowd he’s fighting “Joe Biden from coming in and taking your guns the way that Beto O’Rourke said he was going to do.”

That is a reference to O’Rourke’s pledge in 2019 while he was running for the Democratic nomination for president: “Hell yes, we’re going to take your AR-15, your AK-47.”

O’Rourke made those comments during a debate in Houston just two weeks after a gunman killed seven and wounded 22 others during a shooting spree in Midland and Odessa. A month earlier, a different gunman used a semi-automatic rifle to kill 23 people at a Walmart in O’Rourke’s hometown of El Paso.

He said talking to the mother of a teenager who bled to death on the sidewalk in Odessa after being shot with an AR-15 convinced him that just banning future sales is not enough — assault-style rifles need to be taken off the streets with a mandatory gun buyback program.

He said far more extreme is Abbott signing the permitless carry legislation that allows anyone over 18 to carry a concealed handgun without any training or permits.

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“I look forward to having this conversation with the governor,” O’Rourke said. “We are a proud gun-owning state. I count myself among those who grew up with guns, who grew up hunting with relatives, friends.”

He still supports a mandatory buyback program for semi-automatic rifles.

“We’ve got to find a way to get these weapons of war out of our communities because of the danger that they pose,” he said. “We can protect the Second Amendment and reduce gun violence in Texas.”

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Beto O'Rourke Is Now In The Race For Texas Governor. But Can He Actually Beat Greg Abbott?
By John C. Moritz
Austin American Statesman

When El Paso’s Beto O’Rourke burst onto the political scene four years ago as a charismatic but little-known outsider, he was about to catch the best political wave Texas Democrats had seen in a generation.

Republican Donald Trump was two years into his term and his bombastic style of politics was proving to be an anathema for many independents and moderate Republicans, especially in the Texas suburbs. Ted Cruz, the incumbent U.S. senator O'Rourke was running against, not only turned off some of the same Republicans who disliked Trump, but he generated a visceral antipathy that jolted energy into Texas Democrats who for decades had come to expect defeat in statewide elections.

But the landscape for O'Rourke, who on Monday formally announced his candidacy for governor, has changed markedly since 2018. And many political insiders say the shift has not been in O'Rourke's – or any Democrat's – favor.

El Pasoan Beto O'Rourke officially kicked off his presidential campaign in 2019. "O'Rourke's problem is going to be that by every indication a year, nearly a year in advance, it looks like the 2022 elections are going to be substantially Republican-leaning," said Larry Sabato, the director of the Center for Politics at the University of Virginia and keen observer of national elections. "And Texas has proven beyond any doubt it is still a Republican state."

O'Rourke took dead aim at two-term Republican Gov. Greg Abbott in the video released early Monday to launch his campaign. He faulted the incumbent for the failure of the state's electric grid that kept millions of Texans without the power to heat their homes and cook their meals during the deadly winter storms in February. He hammered Abbott for his conservative policies to further restrict abortion and further expand gun rights.

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But Abbott, undefeated in statewide elections dating back to the 1990s, has been ready for O'Rourke's challenge for months and has shown almost delightful enthusiasm in linking the former three-term congressman to Democratic President Joe Biden. And Biden is already far more unpopular in Texas than Trump ever was as president.

"It's a tough road for Beto. It's going to be a slog," said Brandon Rottinghaus, a political science professor at the University of Houston and the author of Inside Texas Politics. Even though Rottinghaus said Abbott's job-performance numbers "among independents are underwater," the governor still has the power of incumbency and has been adroit in his ability to tie O'Rourke to Biden.

"I think you'd rather be the governor right now than the challenger to the governor," Rottinghaus said.

Gov. Greg Abbott waves to supporters as he and his wife, Cecilia, arrive for an event where he announced his bid for re-election, Friday, July 14, 2017, in San Antonio. Harold Cook, a Texas Democratic political analyst and commentator who no longer works for candidates, acknowledged that any Democrat running statewide in 2022 is running uphill. But the sunny side of the equation, Cook said, is that Abbott put at risk his reputation as a steady pragmatist when he lurched to the right during this year's legislative sessions in his effort to outflank conservative challengers in his own primary.

"There's no question that this is a tougher race for Beto than the one he ran against Cruz," Cook said. "The good news is, Greg Abbott has never been a weaker candidate than he is right now."

A University of Texas/Texas Tribune poll released last month showed Abbott with a comfortable 9 percentage point lead over O'Rourke. But the same poll also showed only 43% of respondents approved of the governor's job performance while 48% said they disapproved. But the governor still polled ahead of Biden, whose job approval rating was an anemic 35%.

Abbott's team wasted little time in the effort to tighten the link between O'Rourke and the president, accusing both of being hostile to law enforcement while encouraging illegal immigration.

"Beto O’Rourke has demonstrated he has more in common with President Biden than he does with Texans," said Abbott campaign spokesman Mark Miner.

But Clyde Barrow, chairman of the political science department at the University of Texas Rio Grande Valley, warned against putting too much stock in polling or Texans' attitude toward Biden more than 11 months before the 2022 general election.

"By the time we get around to the gubernatorial election, (Biden's recently passed) infrastructure bill will start to kick in," Barrow said. "There's $35 billion of that money

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coming into Texas. Nobody has really campaigned hard on many of the policies that were adopted by Biden."

Sabato said the Abbott-O'Rourke race will likely once more put Texas politics front and center in the national debate next near, just as the Cruz-O'Rourke matchup did in 2018. O'Rourke, already a national figure since 2018 and even more so after his short-lived run for the 2020 Democratic nomination, likely will again attract support from a nationwide donor base, Sabato said.

Abbott, too, has emerged as a national figure during his second term and has already proven himself a prodigious fundraiser in Texas and beyond.

"It goes without saying there will be a ton of national money on both sides," said Sabato. "It isn't just going to be Texas money."

Both candidates still have to survive their respective primaries. No candidate with a statewide base or even a recognizable name has joined O'Rourke on the Democratic side. Abbott's best-known GOP foes are former Texas Republican Party Chairman Allen West and former state Sen. Don Huffines. Both remain far behind in the few polls conducted so far.

Assuming both Abbott and O'Rourke emerge as their party's nominee, Rottinghaus said the bigger burden will likely be on the Democrat to show he still has the magic that was on display in the Senate race four years ago.

“Can you catch lightning in a bottle twice?” he said. “That’s going to be hard to do.”

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Beto O’Rourke Went After Assault Rifles In His Run For President. Will That Hurt Him With Gun-Loving Texans?
By James Pollard and Patrick Svitek
Texas Tribune

Still raw from a deadly mass shooting that took place in his hometown of El Paso, Beto O’Rourke unapologetically defended his support for a mandatory assault weapon buyback program at a September 2019 debate in Houston.

“Hell yes, we’re going to take your AR-15, your AK-47,” O’Rourke famously said to roaring applause from a crowd at Texas Southern University. “We’re not going to allow it to be used against our fellow Americans anymore.”

At the time, the former congressman was seeking the Democratic nomination for president, trying to distinguish himself among primary voters in a wide field of candidates. Now, he’s running for governor in a state with the most gun owners in the

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nation against an incumbent who routinely touts his record on relaxing firearm restrictions.

In an interview with The Texas Tribune to announce his run, O'Rourke said he won't be backing down from his message on guns. He also said many Texans who support gun rights, regardless of party, agree that most people shouldn't have access to assault rifles.

"Most of us understand the responsibility that comes with owning a firearm, and we will vigorously protect that Second Amendment right and also protect the lives of those around us," he said. "But I think most of us also understand that we should not have military-style weapons used against our fellow Texans. We have four of the worst mass shootings in U.S. history right here in Texas that took place over the last five years."

O'Rourke also turned the tables on Abbott, accusing him of being the one to promote "extremist" gun policies when he signed the permitless carry bill into law this year allowing most Texans to carry handguns without training or a license.

"What I think you'll also find is most Texans reject Greg Abbott's extreme, divisive policies when it comes to firearms, like signing the law for the permitless carry bill," he said, adding that the bill was opposed by members of law enforcement worried it could endanger officers.

O'Rourke made his iconic gun statement at the third Democratic presidential debate, which fell about five weeks after a gunman went on a shooting rampage at an El Paso Walmart targeting Hispanic people. The shooter killed 23 people in what federal law enforcement classified as an act of domestic terrorism.

The tragedy prompted O'Rourke to suspend his presidential campaign events and anchor himself in the city he represented for six years in Congress and six other years on the El Paso City Council.

O'Rourke told The Atlantic the event changed his approach to the presidential race. And the refrain — "Hell yes" — became a T-shirt and fundraising tool for a presidential campaign that ended several weeks after the debate performance.

Jordan Berry, a GOP political consultant, said O'Rourke is compromised in Texas.

Texans take the Second Amendment "really seriously," he said, adding that his gun stance will "hurt him across the board," particularly with swing voters.

But in 2019, a poll found that there were more Texans who said they supported a mandatory buyback program to turn in all assault weapons than those who opposed it. Nearly half of Texans supported the buyback program, while about 29% said they opposed it, according to a poll by the University of Texas at Tyler. The rest of the respondents either were neutral or unsure.

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A University of Texas/Texas Tribune poll from October 2019 found that 59% of Texas voters support a nationwide ban on semiautomatic weapons, compared to 33% who oppose the policy. The approval rating included 86% of Democrats, 56% of independents and 35% of Republicans.

For Joshua Blank, research director for the Texas Politics Project at UT, the idea that O'Rourke is in "grave danger" with Texans on the issue of gun control is overly simplistic.

In fact, Blank said Republicans pushing gun legislation in the first legislative session after the El Paso shooting may have given O'Rourke an "entry point" on the issue.

Some 55% of voters polled in October said they disapproved of a new Texas permitless carry law that allows most Texans to carry handguns without training or a license.

"In a vacuum, Beto's comments certainly create a challenge for him in Texas," Blank said. "But considered in the context of the Legislature passing permitless carry, which has majority opposition, and in the first legislative session after the mass shootings … I think it is a conversation that Beto is willing to have."

Democrats in rural Midland and Taylor counties — both of which supported U.S. Sen. Ted Cruz over O'Rourke in 2018 by about three-fourths of the vote — said they're not turned off by O'Rourke's gun stance.

Midland Democratic Party Chair Cathy Broadrick worked for the federal prison system for 20 years and had to qualify annually to operate a variety of weapons, including the M16, a rifle similar to the AR-15.

While she doesn't look down on gun enthusiasts who want to shoot such weapons — noting the "blood pumping" fun there is to be had — Broadrick said such automatic rifles shouldn't be accessible to all.

"I understand all these people that scream freedom and their constitutional rights," said Broadrick, a self-described country girl who hunted birds. "But if you've ever stood on the firing line and you've shot an M16, you realize the power that that weapon holds."

For his part, O'Rourke said he too grew up in a family of responsible gun owners.

"Most of us grew up with firearms. I did at my house, where my dad kept a gun for protection, where we had guns for hunting, where I was taught how to safely use a gun by my great uncle Raymond, who was sheriff's deputy and the jail captain at the El Paso County jail," he said.

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While Broadrick acknowledged that Democrats have debated the wisdom of O'Rourke's comments, she doesn't think his words will damage his political future because she believes few Texans own AR-15s.

The people who supported O'Rourke in his 2018 Senate campaign will still turn out for him this cycle, Broadrick added.

"I think Republicans will try to make an issue of it, but Beto wasn't going to get those voters anyway," she said.

Taylor County Democratic Party Chair Elizabeth Smyser said she hopes Texans interested in solutions to gun violence will have compassion for the spirit with which O'Rourke tackled this issue, noting the suffering he witnessed in El Paso. Smyser said while there may be some single-issue voters on guns that O'Rourke has lost, there is also a sizable "middle ground."

"Those people in the middle that see and have heard the stories of all the gun violence and that are tired of kids getting mowed down in their classrooms or don't want to see Latinos getting targeted again — there are a lot of people that feel that those things are far more extreme than what Beto said off the cuff in a moment of despair," Smyser said.

The rural Democrats said they expect O'Rourke to still be popular among Democrats and other voters in the race.

"The minute I say the word 'Beto,' I know I'm gonna have 200 people show up," Broadrick said. "And in red Midland, Texas, that's substantial — in an area with 80% Republican, mostly, that you can still get a lot of people to turn out."

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Administration News

Carrollton Rep. Michelle Beckley Seeks Democratic Nomination For Texas Lieutenant Governor
By Philip Jankowski
Dallas Morning News

Two-term North Texas state Rep. Michelle Beckley will launch her Democratic campaign for lieutenant governor Tuesday in a bid to challenge a powerful and well-funded incumbent in Republican Dan Patrick.

Beckley, in an interview with The Dallas Morning News, said she will seek to frame Patrick and his "extremism" agenda as a politician more beholden to his powerful donors than to his own convictions.

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But before she can face Patrick, Beckley must first clear a field of Democrats. She joins Houston accountant and businessman Mike Collier and former ABC political commentator Matthew Dowd in the race for the Democratic nomination.

Winning will be a challenge as Collier is years ahead in establishing connections with Democrats across the state while Dowd benefits from the national recognition from his appearances on national TV and as an adviser for former President George W. Bush.

However, recent polling shows that a majority of Texas Democrats have not made up their mind about who they will vote for in the primary. That, in part, led Beckley to enter the race.

“The field is wide open,” Beckley said. “That is the reality of the situation.”

Beckley, 51, said she believes she can gobble up that real estate of undecided Democrats by focusing on her electability and record. Of the three, Beckley is the only one to win an election and the only one who can point to a voting record as proof of her progressive bona fides.

Beckley first won election to the Texas House in 2018 in an election that saw several Republican House seats flip. Beckley’s election was enough of a surprise to Democrats that she didn’t receive a congratulatory call from the state party until well after her contest was decided because no one had expected a Democrat to have a chance in Denton County, she said.

Flipping the seat immediately made her a high-profile Democrat in the Texas House. Holding it in a difficult 2020 reelection campaign furthered that.

Known as much for her bluntness as the blue streak in her hair, the Carrollton bird shop owner has become a reliable progressive who often leans into her liberalness. The blue streak is gone — “My hair is tired,” Beckley said — but the liberal politics remain.

Expanding Medicaid, fully funding public education and legalizing marijuana are among her top priorities. She also said that fixing Texas’ troubled electric grid will be one of the centerpieces of her campaign platform.

“The vast majority of voters in general are not happy with what happened in the Legislature,” she said. “You’ve got your bounties on women, you’ve got a gun free for all. People want Medicaid fully funded. All of these are popular positions that our lieutenant governor does not have because he caters to the furthest right of the right.”

Beckley’s candidacy for lieutenant governor comes after she suspended a campaign for Congress.

She announced in June that she would challenge Republican Congresswoman Beth Van Duyne while she was still in Washington during the quorum break earlier this year that

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failed to thwart the Texas GOP's controversial voter integrity laws. The timing of her announcement was somewhat awkward as Democrats attempted to combat the GOP's narrative that they had only fled Austin as a political fundraising stunt.

She ended that campaign after Republicans drew her out of that district as well as her state house district during redistricting.

Winning the March 1 primary will be the first test. If Beckley is successful, she will face Patrick and the $26 million campaign war chest he has amassed, according to the most recent campaign finance reports.

Ed Espinoza, executive director of Progress Texas, said that he was glad to see a woman jump into the race and that he expects the field to grow.

"She has demonstrated that she is a tough candidate that has won tough races," Espinoza said. Winning will "take money and resolve. I don't know what her fundraising ability is. But she certainly brings a lot of resolve to the race."

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Michelle Beckley, One Of The Texas House's Most Liberal Members, Joins Democratic Primary For Lieutenant Governor
By James Barragan
Texas Tribune

Democratic state Rep. Michelle Beckley of Carrollton, who gained national attention for joining lawmakers who fled to Washington, D.C., to block a Republican election bill this summer, is running for lieutenant governor, expanding her party's primary to three contenders.

In her campaign announcement on Tuesday, Beckley said she was running because Republican incumbent Dan Patrick is implementing policies that "hurt Texas business and make life harder for all Texans."

"I'm running for Lieutenant Governor because politicians are putting ideology ahead of results that matter to Texans," she said. "In the last legislative session alone, they worked to limit voters' rights, put bounties on women, marginalize minorities, and make-up false boogeymen in our schools, and the health and wealth of Texans suffered. I'm running to stop them."

Beckley joins a race that already includes political commentator Matthew Dowd and Houston accountant and auditor Mike Collier, who was the Democratic nominee for the position in 2018 and came within 5 percentage points of beating Patrick. She said she was recruited to run for the position but did not say by who.

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Beckley said she joined the race to give Democratic voters another option and a candidate with more legislative experience.

“Neither one of those candidates has won an election,” she said. “I won an election in a hard district and improved my margins.”

Collier has lost two statewide elections. First in 2014, when he ran for state comptroller against Republican Glenn Hegar and again in 2018 against Patrick. Dowd has not sought elected office before but was a political strategist for some of Texas politics’ biggest names, including Republican George W. Bush and Democrat Bob Bullock.

Beckley, the owner of a pet shop, entered Texas politics in 2018 when she flipped a traditionally Republican district in Denton County by ousting three-term incumbent Ron Simmons, who had authored the so-called transgender “bathroom bill” in 2017. Her victory was a surprise to many political observers, but Beckley said she plans to use the same shoe-leather approach to winning over voters in the lieutenant governor’s race.

Beckley said Republicans will have a fundraising advantage over her, but she plans to raise enough money to get her message out and win over voters.

“I was outspent 10-to-1 my first election. Nobody thought I was gonna win that either,” she said. “I've done it before. So I'm confident I could do it again. I wouldn't be running if I didn't think that.”

Beckley said her top priorities as lieutenant governor would be expanding Medicaid, fixing shortcomings in the state’s power grid and fully funding public education. Those issues are in line with the priorities of the other candidates in the Democratic primary.

But Beckley, one of the most liberal members of the Texas House, is also known for her support for marijuana legalization, abortion rights and her call for more gun control after the 2019 mass shootings in El Paso and Midland-Odessa.

Beckley said she is a candidate who can bring “balance” to the position of lieutenant governor. Issues like marijuana legalization and Medicaid expansion would benefit rural communities whose farmers could benefit from growing marijuana for business and whose struggling hospitals would be helped by a change in the health care system, she said.

But she does not back down from the positions she’s taken on immigration, abortion rights and guns, saying she’s portrayed as a liberal when she believes her actions are in step with the majority of Texas voters.

“Our state has gone to the extreme and I am the values of the moderate,” she said. “In many other states I would not be considered liberal at all.”

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Beckley said Patrick is “the extreme of the extremes” and puts the interests of his donors ahead of those of average Texans.

“He told people to sacrifice their grandparents for the pandemic,” Beckley said, pointing to Patrick’s comments early in the pandemic that a failing economy was worse than the coronavirus.

Since her election to the House, Beckley has been a thorn in the side of the GOP majority, often butting heads with the chamber’s leadership and vocally opposing their policies in debates and in the press. Former House Speaker Dennis Bonnen derided her as “vile” in a secret recording with a political operative.

Beckley said she doesn’t plan to change her combative approach to politics during her statewide race.

“It's a benefit,” she said. “The voters know I'm going there to fight for what they vote me in for.”

Beckley’s blunt talk has sometimes landed her in trouble with her own party. After she was elected to the House in 2018, some Democrats in Denton County accused her of making insensitive racial comments during the campaign trail, when she said the only Spanish she spoke was “tacos and burritos.”

Beckley apologized for the comments but denied any racial bias. As her statewide race kicks off, Beckley said she will try to run on her record and not worry about past allegations.

“I've learned that people will say anything they want to about you,” she said. “I do have a voting record that is the antithesis of what those unfounded conversations were.”

Earlier this year, Beckley announced a run for Congressional District 24 in North Texas currently held by U.S. Rep. Beth Van Duyne, R-Irving. But Beckley suspended her campaign after lawmakers redrew the district to make it much more favorable to Van Duyne. At the same time, Republicans redrew her Texas House district to be more favorable for Republicans.

She considered several other offices, including municipal positions, before landing on running for lieutenant governor.

“They can’t draw me out of Texas,” she said.

Beckley welcomed former El Paso congressman Beto O’Rourke’s entry into the governor’s race as a development that could help Democrats down-ballot.

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“It's great for the Democratic Party,” she said. “He has the infrastructure that we need. He is the strong voice that we need and he will help Texans. He will bring people to the polls.”

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State News

Viral Video Shows Crowd At Texas Church Chanting 'Let's Go Brandon' During An Event
By Malak Silmi
Houston Chronicle

A video posted Saturday on Twitter showing a crowd chanting "Let's go Brandon" during an event at Cornerstone Church has been viewed more than 2 million times.

According to the Associated Press, the slogan is a stand in for “F--- Joe Biden” and became popular among Republicans after a post-NASCAR race interview in October. During an interview with NASCAR driver Brandon Brown, the crowd could be heard chanting the vulgar phrase. The reporter, however, believed the crowd was chanting "Let's go Brandon."

The video that emerged from the popular San Antonio church was recorded some time during the three-day "ReAwaken America" conference that took place Nov. 11-13.

On HoustonChronicle.com: Texas AG Ken Paxton gets grilled on Fox News over 'inconsistent' vaccine stances

Among the speakers at the conference was Michael Flynn, the former National Security Advisor to Donald Trump who resigned less than a month into the role because he lied to the FBI about his contacts with Russia.

PatriotTakes, an organization that exposes far-right disinformation, shared the video on Twitter with the caption "The Q-Anon crowd is at televangelist John Hagee’s Cornerstone Church in San Antonio. They are chanting, “Let’s Go Brandon” from the church pews."

A second video posted by PatriotTakes shows that the chants may have been led from the stage and not spontaneously from the crowd.

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Texas State Rep. Ina Minjarez To Run For Bexar County Judge
By Daniel Friend
The Texan

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After exploring a bid for over a month, state Rep. Ina Minjarez (D-San Antonio) officially launched her campaign for Bexar County judge on Monday, forgoing reelection to the Texas Legislature.

"Over the course of my career, I have worked to support working families, small businesses, seniors — our everyday neighbors," said Minjarez in a video. "This year alone, I worked to bring our community over one million dollars in funding to our higher education institutions, library services, the children's courts, local infrastructure projects, and economic growth programs that have helped veterans and local businesses in Bexar County"

Minjarez was first elected to House District (HD) 124 in the Texas House of Representatives in April 2015 during a special election and was sworn in shortly before the end of the 84th Regular Legislative Session.

Her decision to run for the top executive position in Bexar County comes after the current county judge, Nelson Wolff, decided not to seek reelection.

Had she sought reelection to her state House seat, Minjarez would have had more of an upper hand than in previous years, as redistricting left her district slightly more Democratic.

The Texas Partisan Index rating — a metric based on election results in 2018 and 2020 — for HD 124 shifted from a seat where Democrats carried about 65 percent of the vote (D-65%) to D-68% after the new maps were signed into law.

HD 124 covers the southwestern portion of San Antonio and includes Lackland Airforce Base.

Minjarez's retirement from the legislature follows a wide swath of her colleagues who have done the same.

A list of the open seats in the state legislature can be found on The Texan's 2022 Election War Room.

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Education

Texas Education Board Considers How Middle Schools Teach Climate Change And Sexuality As Officials Fight Over Library Books
By Brian Lopez
Texas Tribune

When the 15 members of the State Board of Education meet at its regular quarterly meeting this week, the elected group is expected to talk about how climate change and

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sexuality are taught to middle school students. It’s part of a regular process that takes place every eight years.

But there’s another topic not on the agenda that at least one board member says needs to be discussed, and that’s how much say the board has about what goes on a school’s library shelf.

Last Monday, Gov. Greg Abbott called on both the Texas Education Agency and the state education board for the removal of books with "overtly sexual" content in school libraries and to develop standards for what gets into libraries. The governor chimed in after state Rep. Matt Krause, a Fort Worth Republican, launched an investigation into certain school districts over the types of books students can access.

Ever since Krause published a list of around 850 books — most of which are about race and sexuality — and began asking districts if they had them on the shelves, the question of who polices nontextbooks available in schools has been unresolved. The Texas Association of School Boards says the decision is one local schools make.

But at least one state board of education member, Pat Hardy, who represents Tarrant and Parker counties as well as part of Dallas County, says the board needs more clarity on what role the board has in these decisions.

“Don't just throw the hot potato our way and say ‘Y’all take on that responsibility,’” she said.

Last week, Keven Ellis, education board chairperson, said Texas public school families "should have the reassurance that their children are not at risk of being confronted with pornographic and obscene material when they are in school."

But exactly what form that reassurance takes is unclear.

The state board typically works on standards that textbook publishers need to meet. But as they take up science and health standards this week, some similar topics that concern parents — and lately, lawmakers — will be surfacing, primarily about sexuality.

Last year, the board approved expanding the state’s seventh- and eighth-grade health and sex education curriculum to include forms of birth control beyond abstinence and education about sexually transmitted infection. However, the Republican majority board once again fell short of being more inclusive of the LGBTQ community, rejecting pushes to include lessons on sexual orientation, gender identity and consent.

At least one of the 13 textbooks that the State Board of Education will consider contains supplementary materials that touch on those topics — although teachers are not required to teach them. Once approved, they would then be available for school districts to adopt.

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Dan Quinn, a spokesperson for the left-leaning Texas Freedom Network, said allowing this book to be adopted by school districts will give teachers a tool to talk about these topics.

Quinn's group believes the board must revise its health curriculum to include those topics. The board will meet from Tuesday through Friday.

"This vote really is a test for whether the state board of education in Texas has moved past the culture wars and the political circuses," Quinn said.

Hardy said she'll have a hard time voting for a textbook that includes things that aren't in the state-approved standards. Hardy said parents have the option to teach their children about things that aren't in the state-approved standards.

"The standards we chose reflect what we heard from parents as to what they wanted," Hardy said.

The state board is also set to vote on new science standards for middle schoolers with the most attention being drawn to what eighth graders are learning about climate change, Quinn said.

The last time the state board adopted new science standards in 2009, the chair at the time said climate change was a "bunch of hooey." Over a decade later, the current board made changes to its high school curriculum last year with climate change being addressed in some high school courses and now moves to do the same in middle schools.

Under the proposed eighth grade science guidelines, students are expected to learn how "natural events and human activity can impact global climate." For Quinn and scientists, that's where the problem lies. Human activity and natural events do, have and will continue to impact global climate. There is no "can," he said.

Hardy said she likes the way the climate change standards are currently worded as she wants children to learn both the good and bad that come from fossil fuels — such as how it has elevated and supported the Texas economy.

On Nov. 4, climate scientists across the state sent a letter to the state board urging that they revise the proposed curriculum to reflect that human activity such as the release of greenhouse gases have affected the climate.

"Teaching about climate change doesn't just prepare students to succeed in college-level work if they choose to further their education after high school," wrote Andrew Dessler, professor of atmospheric sciences and the Reta A. Haynes chair in geosciences at Texas A&M University. "It also helps students become informed voters who understand the stakes and can make responsible decisions as we work together to find real solutions to the problem."

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Energy

Permian Basin Roars Back To Life, With Oil Output On Track To Set A Record In December
Dallas Morning News

Oil output in the Permian Basin is projected to hit a record as the largest U.S. shale patch leads the recovery in domestic production from its COVID-19 induced slump.

Supplies from the prolific oil field of West Texas and New Mexico are set to increase to 4.95 million barrels a day in December, according to a U.S. government report Monday. That surpasses the record set in March 2020, right before the pandemic wreaked widespread demand destruction globally, triggering production shutdowns and bankruptcies across the U.S.

Crude supplies from the basin now exceed that of each OPEC member except Saudi Arabia, underscoring the Permian's ascendancy to its role as a globally important swing producer. Its bounce-back has been driven by low break-even costs, and the largest U.S. drillers are almost exclusively focusing their limited domestic plans for expansion on the sprawling oil patch, at the expense of other shale basins. Total U.S. output is still a long way off from a full recovery.

One reason drillers aren't incentivized to boost output in other basins is because most market observers estimate that the global oil market will become oversupplied next year. Last week, the Energy Information Administration projected that global oil supply is set to average 101.42 million barrels a day in 2022, while worldwide demand is seen at 100.88 million barrels a day.

Still, record Permian output won't be enough to significantly reduce oil prices in the near future as long as overall demand continues to outpace supply.

Production in the Bakken in North Dakota and the Eagle Ford in South Texas are both still down from pre-pandemic levels. Output in other shale regions is set to rise modestly with gains ranging 2,000-5,000 barrels a day, the agency said.

The backlog of oil wells that have already been drilled and are waiting to be fracked, known as DUCs, have sunk to the lowest volume since 2014, the agency said in its Drilling Productivity Report.

But U.S. oil explorers are making more money than at any time since the shale revolution began over a decade ago, according to Deloitte LLP. And this may just be the beginning. Free cash flow, the key metric watched by investors, probably will increase by 38% next year, presuming oil prices remain elevated, according to Bloomberg Intelligence.

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After effectively subsidizing consumers through the 2010s with break-neck drilling that depressed global oil prices, the shale industry appears to have struck a winning formula: moderating production, limiting reinvestment in new wells and shaving debt. Crucially, executives now understand that any output growth must be carefully measured, and not take market share from OPEC and its allies, for fear of sparking repeats of the bruising price wars of 2014 and 2020.

"Public-company investors just don't want to see companies spend a ton of money only to slam the price," said Nick O'Grady, chief executive officer of Northern Oil & Gas Inc. "It becomes self-defeating. And that's the experience of public investors for the last 10 years."

Publicly traded companies are unwilling to budge from austerity programs popular with investors.

"Our investors want cash back," Scott Sheffield, CEO of Irving-based Pioneer Natural Resources, said on Bloomberg TV this month.

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Business/Economy

Texas Born Cookie Delivery Service Tiff's Treats Is Now Worth $500 Million
By Dom DiFurio
Dallas Morning News

Cookie delivery service Tiff's Treats is now worth $500 million after the completion of a recent $30 million funding round, the Austin-based company announced today.

The company began in Leon Chen's Austin apartment in 1999 when he and Tiffany began dating while attending the University of Texas. The founders moved the company into its first real kitchen space in 2000, and have been opening locations across the state ever since.

The second-ever Tiff's Treats location opened was in downtown Dallas in 2006, and the company expanded outside of its home state for the first time in 2016. The company now has 70 retail distribution centers across the southern U.S. and employs 1,700 workers. It's sold more than $200 million warm cookies to date.

The company plans to invest the $30 million it raised in continuing its national expansion and development of its e-commerce platform.

"We continue to invest in our direct-to-consumer, on-demand gifting and delivery platform from the ground up, resulting in a best-in-class giving and receiving experience for customers," cofounder Leon Chen said in a statement Tuesday. "With our technology, we manage the entire delivery experience, utilizing our own delivery drivers and highly-

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committed in-house customer service team. We are focused on our mission to connect people through warm moments. Warm cookies are the vehicle, but our purpose is much bigger than that."

The company just opened a Kessler Park location in August, its 17th in the Dallas area. And the Chen's are releasing their first book early next year which will delve into the couple's last two decades of entrepreneurship.

Tiff's has had a number of high-profile Texas figures and celebrities invest in the company over the years including former Dallas Mayor Mike Rawlings, Dirk Nowitzki and Kendra Scott.

"Every day we are lucky to be an integral part of some of the most significant moments in people's lives, fulfilling our mission of connecting people through warm moments," cofounder and president Tiffany Chen said.

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Welcome To Musklandia: Austin Adjusts To Life With Tesla And Its Eccentric Billionaire Boss Elon Musk
By Kara Carlson
Austin American Statesman

Welcome to life in Musklandia.

As Elon Musk's sphere of influence in Austin and across Texas seems to expand by the day, the eccentric Texas-based billionaire is taking the region and the state along on the wild and often weird roller-coaster ride that is his life.

It's been a little more than a month since Musk announced Oct. 7 that Tesla is moving its headquarters to Austin, but even before that, Musk was already spending an increasing amount of time in Austin. He has been moving more of his companies into the region since at least 2020, most notably with Tesla's $1.1 million manufacturing facility currently being built in southeastern Travis County.

Construction crews work on the $1.1 billion Tesla facility in southeastern Travis County in October.
As Austin becomes ground zero for all things Musk, that leaves the rest of us figuring out how to navigate the new landscape — good, bad and odd.

"Musk is a modern-day Albert Einstein in the eyes of many, and the richest person in the world by a wide margin. He's going to bring a lot more limelight and focus on Austin," said Dan Ives, an analyst with Wedbush Securities.

Musk and Austin are likely to become inextricably linked in the coming years, Ives said.

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"When the average person in the world thinks Austin, Texas, they're not going to the music festival or Dell or for the great city it is. Tesla and Elon Musk are going to become synonymous with Austin," Ives said.

Roger Kay, an analyst with Endpoint Technologies, said Musk's status and personality are sure to have an impact on Central Texas.

"He's the richest guy in the world, which is interesting. So what he'll do immediately is upstage (Dell Technologies founder and CEO) Michael Dell, at least on that," Kay said. "Michael has been the kind of king of Austin, I would say, all up until this point."

Expanding presence

While the $1.1 billion Tesla manufacturing facility and Tesla's planned headquarters move to Austin have drawn the most attention, Musk's ventures have been quietly expanding in Central Texas for some time now. They include Musk's tunneling and infrastructure company, the Boring Co., which has facilities in Pflugerville and Bastrop; a potential SpaceX expansion somewhere in Austin; a potential Neuralink office; and the headquarters of his private foundation, the Musk Foundation.

Also, a Tesla subsidiary, Tesla Energy, was recently licensed to operate as an energy provider in Texas, according to documents filed with the Texas Public Utility Commission. The company is already building the first Tesla solar neighborhood in Austin, called SunHouse at Easton Park, with solar- and alternative-powered energy.

Meanwhile, SpaceX — Musk's aerospace and rocket company — has multiple facilities around Texas, including a launch site near Boca Chica in far South Texas.

What's not clear is whether Musk has a residence in Austin. Although various media outlets have listed Austin as his home, he has never publicly confirmed that. Musk announced last year that he had moved to Texas but said his main residence is a small home near Boca Chica on the SpaceX campus.

Whether Musk actually lives in Austin or not, his influence in and impact on Central Texas can't be denied.

Kay said the influx of Tesla and other Musk-related companies will lead to higher salaries in the local tech industry, as well as add to the region's already booming housing market and send real estate prices even higher.

"For some people there will be good opportunities. Other people," Kay said, "are going to be irritated."

'Most powerful voice in the world'

One of the places where Musk has drawn the most attention — and perhaps created the most irritation — has been on social media. Musk is active on Twitter, where he has more than 63 million followers.

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With his immense wealth and such a huge audience, the influence of what Musk posts on social media shouldn't be downplayed, Ives said.

Eccentric Tesla CEO Elon Musk recently became the first person in history with an estimated net worth of more than $300 billion.

"He is one of, if not the most powerful voice in the world in terms of social media and a following," Ives said. "If Musk talks, everyone's listening. When you're on the right side of that, it's great. When you're on the wrong side of that, it's a lot of downsides."

Few days go by without Musk making some sort of headline on social media, whether it be for company news, cryptic personal statements, political commentary or just posting a meme.

One example was early last week, as after polling his Twitter followers on whether he should sell 10% of his Tesla stock, Musk sold about 900,000 shares, netting over $1.1 billion. His trust also sold more than 3.5 million shares worth $3.88 billion. The stock options that were sold would expire next year and still leave Musk with about 170 million Tesla shares.

More sales later in the week, from both Musk and his trust, have brought the total stock sold to 6.4 million shares, worth a total of $6.9 billion. The sales so far amount to less than 4% of the shares he holds.

Ives said that while a sale of some stock has been expected to pay upcoming taxes, holding a Twitter poll to sell the stock is "another soap opera that can only happen to one company and one CEO in the world, Musk."

Here are a few more highlights and lowlights from Musk on social media in the past month:

- Over the weekend, he clashed with U.S. Sen. Bernie Sanders on Twitter after the former presidential candidate from Vermont said the extremely wealthy should pay their fair share. Musk tweeted: “I keep forgetting that you’re still alive,” and later added, “Want me to sell more stock, Bernie? Just say the word …”
- He criticized Tesla co-founder Martin Eberhard, with whom he has feuded for years, on Twitter. He claimed to "wish he never met" the co-founder, whom he considers the "worst person I’ve ever worked with in my entire career,” and said that Eberhard “came damn close to killing Tesla.”
- He tweeted a crass comment at Oregon Sen. Ron Wyden after the politician tweeted in support of a billionaires income tax and said Musk paying taxes shouldn't be dependent on a Twitter poll.
- He temporarily changed his Twitter name to Lord Edge, likely a reference to the phrase “edge lord.”
- He tweeted a joke that he was considering starting a new university in Texas, whose name could be used to form a rude acronym.

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- He acknowledged on Twitter that Tesla's self-driving was having software issues and announced that an update would be rolled back after Tesla owners reported cars behaving erratically.
- He pushed back on President Joe Biden's proposed tax plan, dubbed the Billionaires Income Tax, which would add a tax on the assets, not income, of billionaires. "Eventually, they run out of other people's money, and then they come for you," Musk tweeted on the same day he gained $36 billion in personal wealth from the Tesla stock surge.
- He called Biden a "puppet" for the United Auto Workers union and pushed back on his plan for electric-vehicle purchase tax credits proposed in the president's infrastructure bill. The plan would exclude nonunion automakers, such as Tesla.
- He exchanged tweets with David Beasley, director of the U.N.'s World Food Program, who urged Musk to donate 2% of his estimated net worth, or about $6 billion, to help fight world hunger. Musk said if the program laid out a detailed plan for how exactly the $6 billion would be used and the donation went through open source accounting, he would donate. Beasley said that was possible, and he would meet him anywhere, "earth or space," to discuss further. No donation has been made.

While most of that social media activity hasn't focused directly on Austin or Texas, there are signs Musk is starting to take more of an interest in what's going on in the Lone Star State.

'Going to be some ruffled feathers'

When Musk announced he was moving Tesla's headquarters to Austin, he didn't mention previous clashes he'd had with California officials. However, industry analysts say that while Austin is more affordable than Silicon Valley and still has the tech and engineering talent Musk needs for his companies, it seems clear he decided he preferred Texas' more business-friendly environment over California's more regulation-heavy approach.

"I think Musk selected Texas in particular because of its kind of frontier style. He's always thought that California's heavy regulatory environment was not particularly conducive to his style," Kay said. "He's made it really clear that he doesn't think public authorities have any business telling him what to do."

All of which means officials in Texas — and in Austin — could eventually find themselves getting the same pushback California did from Musk if regulatory conditions rub him the wrong way.

Musk tends to do what he wants and is clever and aggressive in how he goes about disputes, Kay said. At the same time, he will bring a lot of jobs and tax revenue to the region, which gives him cards to play.

"He'll say, 'Well, listen, you want me to just pick up stakes and go to Mississippi?'" Kay said. "There's probably going to be some ruffled feathers there when he says, 'It's my

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way or the highway and now I own your highway, You can't say anything about it. You do — well, then I'll bring all my resources to bear upon you.'"

It remains to be seen how Musk might aim to influence state or local policymaking.

In September, Gov. Greg Abbott said that Musk supported Texas' social policies. In response, Musk tweeted: "In general, I believe government should rarely impose its will upon the people, and, when doing so, should aspire to maximize their cumulative happiness. That said, I would prefer to stay out of politics."

However, Musk has weighed in on some Austin political issues already.

"Austin should be its city, not a San Francisco copycat," Musk said in a Halloween tweet replying to a tweet about Proposition A, which didn't pass earlier this month. The proposition would have required the city of Austin to hire hundreds more police officers.

Whatever positions Musk takes, they are sure to have influence in Austin, across the state and globally, Ives said — in large part because of Musk's immense wealth and the power that affords him.

Musk recently became the first person in the Bloomberg Billionaires Index to have an estimated net worth of more than $300 billion, making him not only the wealthiest person in the country but also the richest person in history. Musk's current estimated net worth is somewhere between $280 billion and $300 billion.

Having Musk and Tesla here comes with "exponentially more positives than negatives for Austin," Ives said. "But Austin has to embrace Tesla and Elon, and not just treat him like any other business person. There are 300 billion reasons he's not."

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Immigration/Border Security

Group Of 225 Migrants Apprehended In West Texas Border Town
By Bob Price
Breitbart

Del Rio Sector Border Patrol agents apprehended a large group of migrants who illegally crossed near Eagle Pass, Texas. The group of 250 is part of an increasing number of migrants apprehended in the Eagle Pass Station area of responsibility.

"The station is averaging over 500 apprehensions per day so far this month, making Eagle Pass the new hot spot for Del Rio Sector," Del Rio Sector Border Patrol officials tweeted. "We continue to adjust operations with our constant focus on national security."

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Border Patrol officials previously stated that human smugglers utilize large groups, like this group of 250 migrants, to tie up law enforcement assets in the area in order to run drugs or so-called "high-value" migrants into the U.S.

In September, Haitian migrants make the Del Rio Sector and the city of Del Rio, Texas, the new ground zero of human smuggling activity along the U.S.-Mexico Border. Del Rio Sector officials say that with 500 migrants being apprehended per day, Eagle Pass is now that center of activity.

Over the weekend, Eagle Pass Station agents apprehended more than 1,600 migrants.

During the month of October, the first month of the new fiscal year, Del Rio Sector agents apprehended 28,073 migrants, Breitbart Texas reported. This represents an apprehension rate of about 900 migrants per day. Now, Eagle Pass Station agents alone are apprehended about 500 per day.

These apprehensions are part of the nearly 160,000 migrant apprehensions in October detailed in a leaked Border Patrol document reviewed by Breitbart. This is up by 129 percent from the previous October report.

A source within U.S. Customs and Border Protection speaking to Breitbart under the condition of anonymity said that of the more than 158,000 migrants apprehended in October, only 59,000 were returned to Mexico under the Title 42 coronavirus protection protocol put in place by the Centers for Disease Control and Prevention under the Trump administration.

Nearly 100,000 migrants required longer detention in temporary holding facilities while awaiting processing for delayed removal under the order or in the case of more than 60,000 migrants, release into the United States.

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Abbott Shares Barbed Wire Fencing Photos To Tout Border Wall Progress In South Texas
By Hayden Sparks
The Texan

Months after promising a Texas wall on the border with Mexico, Governor Greg Abbott tweeted two images on Friday depicting barbed wire fencing and heralded the barrier as part of the state's efforts against illegal immigration.

"Construction of strategic fencing continues along the Texas-Mexico border. Miles of razor wire is being used to repel illegal immigrant crossings into our state," Abbott wrote. "Progress is being made on our border wall. Texas is securing the border."

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The tweet included an image of rolls of barbed wire fencing and another image of a completed chain-linked fence with barbed wire perched at the top facing both directions. In the second photograph, a male construction worker in a yellow vest is accompanying a convoy of front-loaders traveling parallel to the fence.

Abbott launched the border fence project in June after the end of the 87th legislature's regular session. The border wall has received hundreds of millions of dollars of state funding and donations, including a donation in excess of $53 million from Timothy Mellon, a Wyoming billionaire with a history of supporting GOP candidates.

Mellon's grandfather was the late Treasury Secretary Andrew M. Mellon.

The Texas legislature provided an additional $1.02 billion in border security funding during the second called session, most of which was for the border fence.

Both Republicans and Democrats supported the additional border fence funding, though some lawmakers pushed back on the idea that the border is a disaster area that requires an influx of spending on security.

President Biden stopped construction on the federal government's border wall almost as soon as he took office in January. However, Chris Magnus, the Arizona police chief Biden has nominated to lead U.S. Customs and Border Protection, stated in a hearing that he was open to resuming a part of the border wall if it was prudent.

There were more than 1.15 million apprehensions of illegal aliens in Texas border patrol sectors in Fiscal Year 2021, not including the estimated number of people who evaded custody, which could be up to two or more individuals per arrest.

All three of Abbott's challengers in the Republican primary, Chad Prather, Don Huffines, and Allen West, have made border security a key issue in their campaigns. In fact, in the first few weeks of his candidacy, Huffines touted the endorsement of Uvalde Mayor Don McLaughlin.

When he backed Huffines in May, McLaughlin called Abbott a "fraud" and noted that schools had to be shut down in Uvalde due to illegal immigration threatening the safety of the town, which is near the southern border.

Abbott's GOP opponents have criticized him for failing to reduce illegal crossings and have made campaign pledges to introduce more stringent policies and be more confrontational with the federal government on the issue.

While border security is primarily a federal responsibility, Abbott ramped up the state's border response in March with an effort known as Operation Lone Star, which has resulted in the arrests of tens of thousands of illegal aliens and the seizure of thousands of pounds of narcotics.

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In a statement to The Texan on Monday, Department of Public Safety (DPS) Press Secretary Ericka Miller provided the most recent statistics for Operation Lone Star, which are current through November 11.

"Since Operation Lone Star began, DPS has made 9,162 criminal arrests, including 1,864 for criminal trespassing. There have also been 7,230 felony charges filed. In addition, DPS has made more than 77,500 migrant apprehensions and referrals, and there have been 929 vehicle pursuits," Miller wrote.

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Feds Arrest Nine Suspects in Smuggling Incident Near Del Rio That Killed Eight People
By Hayden Sparks
The Texan

Nine Texans and an individual from Ohio are facing life sentences for their alleged roles in a human smuggling operation that resulted in the deaths of eight people and the serious injury of several others, the United States Department of Justice (DOJ) stated last week. According to a press release, a Texas Department of Public Safety (DPS) officer attempted to stop 25-year-old Sebastian Tovar of Toledo, Ohio, while he was driving a Dodge Ram in the Del Rio area on March 15.

A chase ensued that ended with Tovar colliding with oncoming traffic, killing eight people and seriously injuring another in his vehicle. All nine individuals Tovar was transporting were illegal aliens. Two American citizens not inside Tovar's truck were also injured, per the DOJ.

"After the crash, U.S. Border Patrol (USBP) agents encountered a Ford F-150 stopped in traffic near the crash site. USBP agents directed the Ford to turn around and subsequently all occupants of the Ford fled the vehicle, absconding into nearby brush," the press release stated.

"USBP agents were able to locate 12 undocumented noncitizens who bolted from the Ford. After interviewing two of the undocumented noncitizens, USBP agents determined that the occupants of the Dodge and Ford were part of a human smuggling operation that was illegally transporting 20 undocumented noncitizens in the U.S."
The government indicated that Tovar, 33-year-old Nicolas Mondragon-Gonzalez of Austin, 34-year-old Veronica Torres-Mendez of Austin, 40-year-old Jennifer Davis of San Antonio, 19-year-old Ruben Rodriguez-Jaimes of Bastrop, 32-year-old Lauren Malmquist of Round Rock, and 23-year-old Eduardo Benitez of Bastrop are charged with one count of transporting illegal aliens resulting in death. If found guilty, they face sentences of life imprisonment.

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Tovar is also looking at one count of transportation of illegal aliens resulting in serious bodily injury and one charge of conspiracy, for which he could be sentenced to 20 years each.

29-year-old Marco Hernandez of Paige and 21-year-old Jose Rodriguez of Austin, in addition to everyone else charged, are accused of up to several counts of transporting illegal aliens. They face up to ten years in prison on each of those counts.

Hernandez is the only defendant named in the 11-count indictment who authorities had not yet taken into custody as of Tuesday, according to the DOJ.

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Opinion/Editorial

O'Rourke's Bid For Governor Means Abbott Will Be Forced To Campaign To The General Electorate
By Erica Grieder
Houston Chronicle

It's official: Texas Democrats have a candidate for next year's gubernatorial race.

A credible candidate, too, in former Texas congressman Beto O'Rourke, who came within 3 percentage points of unseating U.S. Sen. Ted Cruz in 2018.

The El Paso Democrat made the long-awaited announcement on Monday morning. He also released a list of planned campaign events, which will take him through south Texas this week for meetings with organizers, health care workers and law enforcement officers, and to Houston on Friday evening, for a campaign kickoff rally.

"I'm running for governor, and I want to tell you why," O'Rourke said in his launch video, on YouTube. "This past February, when the electricity grid failed, and millions of our fellow Texans were without power — which meant that the lights wouldn't turn on, the heat wouldn't run, and pretty soon their pipes froze and the water stopped flowing — they were abandoned by those who were elected to serve and look out for them."

It's a strong opening salvo, and one that illustrates why Gov. Greg Abbott, a Republican, can't be thrilled about O'Rourke's announcement.

On HoustonChronicle.com: What you need to know about Beto O'Rourke as he challenges Texas Gov. Greg Abbott

"I welcome the challenge," Abbott said in response to the announcement, which came as he was in south Texas for a press conference with state Rep. Ryan Guillen, a Democrat who is switching parties to join the GOP.

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Certainly, Republicans are full of bravado, citing President Joe Biden's sinking approval ratings in Texas, as well as O'Rourke's mixed track record at the polls.

While O'Rourke won three congressional races and then stunned political observers with his strong showing in 2018, he came up short in his Senate bid, then dropped out of the 2020 presidential race before voting began.

In the aftermath of two August 2019 mass shootings in Texas—one inside a Wal-Mart in his hometown of El Paso, the second in Midland and Odessa—he declared his support for a mandatory buyback program for assault weapons. Those are comments that you can expect to hear on a loop and divorced from context for the next 12 months.

But behind this GOP bravado is, surely, some recognition of the facts. Any race is in some sense a referendum on the incumbent, and Abbott is much more vulnerable than he was four years ago when he beat Democrat Lupe Valdez, a former Dallas County sheriff, by nearly 13 points.

Since 2018, we've seen more than 70,000 Texans die due to the COVID-19 pandemic — a scourge for which Abbott mandated a largely hands-off approach. We also saw some 200 hundred Texans die, in February, due to the failure of our statewide electricity grid, which has yet to be fixed. This year alone, Abbott has pursued a far-right agenda that has led to passage of a near-total abortion ban and new restrictions on voting rights (O'Rourke was an outspoken critic of the latter). There have been attacks on transgender children, and, more recently, an attempt to ban books at school libraries.

O'Rourke obviously has more baggage than he did four years ago, when he emerged from relative obscurity like a bolt of lightning. Democrats in 2018 rode a wave of dissatisfaction with President Donald Trump to success at the polls.

But the same could be said of Abbott, a two-term governor with a record he must defend — and which O'Rourke plans to highlight via contrast ads, he tells the Texas Tribune's Patrick Svitek.

Recent polls suggest that O'Rourke will give Abbott a run for his money; While Abbott enters the race as the favorite — a Democrat hasn't won a statewide election in Texas since 1994 —the well-known and energetic O'Rourke can force the governor to defend his record to voters who turn out next year: Republicans can't be thrilled about that prospect.

Incidentally, there's another clear upside: We presumably can stop talking about Matthew McConaughey now, right?

This is no disrespect to the Academy-Award winning actor and author, who seems like a genuinely nice person. But good Lord, he's had Texas political observers gnashing their teeth since expressing some interest in next year's gubernatorial race.

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“I’m actually trying to look at the idea and give it serious consideration,” McConaughey said in April. As well he might; polls have found him leading Abbott in a hypothetical matchup.

But he hasn’t subsequently engaged much with the Texans who have been in the trenches battling state government over the past year. In an interview with Kara Swisher of the New York Times last month, he was equivocal about Texas’s new abortion law and its citizen enforcement clause — “feels a little juvenile in its implementation” — and demurred outright when asked about the state’s highly controversial “election integrity” measure, Senate Bill 1.

“You know, I don’t know enough about that to be able to discuss the details on how I feel about that,” McConaughey said.

But he added, “I think it should be easier to vote.”

To be clear, McConaughey — or anyone else — still has time to jump in. The filing deadline for candidates is Dec. 13. And, for that matter, there’s no guarantee that O’Rourke will end up in a one-on-one showdown with Abbott. The governor is facing a primary challenge from two candidates to his right, former state Sen. Don Huffines and former Texas GOP chair Allen West.

But with O’Rourke’s announcement, the stage is set for a likely showdown between him and Abbott — one that will put both men to the test, decide whether Texas continues on its increasingly conservative course and again turn a national spotlight on Texas.

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Greg Abbott News

Gov. Abbott Asks State Agencies To 'Carefully Assess Implications' From Fed Infrastructure Act Funds
By Monica Madden
KRQE

Gov. Greg Abbott urged state agencies to think twice before accepting funds from the federal Infrastructure Investment and Jobs Act, in a letter sent out Tuesday morning.

As the federal government begins allocating funding to state and local governments, Abbott asked agency leaders to "carefully assess" the implications of federal funding agreements. Texas is set to receive about $35 billion from the infrastructure deal, according to a White House analysis.

"Should the acceptance of any federal funds hinder or needlessly constrain the state, commit the state to ongoing costs for which there is not an appropriation available, or require an agency to implement a federal policy contrary to the law or policy of this state, the agreement proposed by the federal agency should not be signed," Abbott wrote.
Vance Ginn, the chief economist for the Texas Public Policy Foundation, applauded the governor's cautious approach.

"I really suggested that we look at this closely. We reject funds that are coming down if we really don't need them," he said. "If that is going to set us up for future spending in things that that state does not need, then we shouldn't have it down in that direction."

Ginn said he hopes most of the funding is earmarked as one-time expenditures. The White House provided estimates about how much each Texas sector should receive, but state agencies are still figuring out the details of how and when they can spend it.

"Whenever the state receives some sort of money from the federal government with taxpayer dollars going through the federal level, there usually will be some sort of strings attached," Ginn said. "Because we don't want to leave is what we call fiscal cliffs — where you put additional money into a certain area, and that money dries up and now you don't have the money available in the future."

U.S. Rep. Henry Cuellar, D-Laredo, said he thinks the spending outlines are "pretty straightforward" for state agencies to follow.

"It was a bipartisan bill. So, if there were any concerns, I think that our Republican friends would have brought that up or would not agree to that," Cuellar said. "…My prediction is that most the grand majority of these dollars will be accepted by the state of Texas."

Some of the Biden Administrations allocation estimates for Texas include the following:

- $26.9 billion for highway programs
- $3.3 billion for public transportation expansion
- $2.9 billion for clean water improvement
- $1.2 billion for airport expansion
- $537 million for bridge repairs
- $408 million for electric vehicle charging stations
- $100 million for broadband expansion

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- $53 million for wildfire protection
- $42 million for cybersecurity protection

Cuellar said Abbott's letter to state agencies was on par with his typical "hesitation when it comes to federal dollars," but emphasized the need for these investments in the state now.

"Those are things that are very basic that the state of Texas has taken advantage of and I think we should take advantage of that as soon as possible," he said. "Texas is growing our federal dollars, our state dollars — we need to do more to make sure that we get our roads paved, and create new highways in the state of Texas so our economy keeps growing."

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Beto O'Rourke Lays Out His Priorities For Texas At Amarillo Rally
By Michael Cuviello
Amarillo Globe News

Beto O'Rourke returned to Amarillo for his gubernatorial campaign rally greeted by an enthusiastic crowd Monday at Sam Houston Park.

The former U.S. Congressman from El Paso who is seeking the Democratic nomination for Texas governor in 2022 visited Amarillo during several campaign stops around the region this week.

"When we decide that we are going to come together regardless of the differences that would otherwise divide us and decide that we are going to unify on the common ground before us, I believe there is no stopping what we can do," O'Rourke said.

He spoke about his experience this week with educational leaders and students from the Amarillo area and the value of education. O' Rourke said he was inspired by the personal story of student Letty Ramirez and her sacrifices to better herself, all while being a parent.

"I cannot think of anything more important than ensuring that we have a job and one that pays and provides purpose in our life," O'Rourke said to the crowd. "We have to put our money where our mouth is."

When speaking of low salaries and the loss of teachers in education in the state, O'Rourke said we need to take better care of the people who educate our children.

On healthcare, O'Rourke said Gov. Greg Abbott and current leaders are failing to expand Medicaid, to the detriment of the citizens of Texas who have a great need for such measures. He said people should not be going broke because of a medical issue arising.

"I will expand Medicaid and bring those dollars here to get the care that we need," O'Rourke said.

O'Rourke got some of his loudest applause when he told the crowd that, if governor, he would work to legalize marijuana, reducing needless arrests for a legal substance in many other states. He talked about how veterans who could use the drug are instead given much more dangerous opiates.

O'Rourke said common-ground issues like this go across political boundaries.

Taking shots at the current governor over his hot button stances on such issues as voting restrictions, the new current permitless carry law and denying the right to abortion.

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“Thanks to this permitless carry program, there is no way to know if those carrying are criminals or not; it makes us all less safe,” O’Rourke said. “As governor, I will repeal that program.”

He said that the thousands of people that have been rejected for licensed carry now go unchecked without any type of background check.

During his speech, the right to women’s healthcare such as abortion was another of O’ Rourke’s priorities. He derided the current measures by the current governor to restrict access to women’s healthcare.

Jennifer Gregg, who attended the rally, said she was very excited to see the candidate come to the city. She said that one of her top priorities for a candidate was women’s health care.

“I really think his ideas are badly needed, especially in my field of healthcare,” Gregg said. “I like his common sense approach on guns.”

Gubernatorial candidate Beto O' Rourke addresses supporters at Sam Houston Park in Amarillo Monday.
Carole McDaniel said that she really respects that O’Rourke has come to the area multiple times and thinks his leadership is what the state needs.

“This is his eighth time here," McDaniel said. “His words about education and paying teachers are essential to me. Also, let's bring Medicaid to Texas that we choose not to expand it makes no sense for our needs.”

She also said that his views on women’s healthcare and access are badly needed.

Asked earlier in the day about his stance on the Second Amendment and the misinformation about his views, O'Rourke clarified his stance.

“We’re Texans. We will defend the Second Amendment and we will also ensure that we have the kind of responsible gun ownership that protects the lives of those around us. We’re a little more than two years removed from a mass shooting in Midland-Odessa that killed eight. From another the month before that killed 23 in El Paso, we have four of the deadliest mass shootings in U.S. history, just in Texas and just in the last five years.”

Attendees of the Beto' O Rourke rally at Sam Houston Park hold signs of support Monday evening.
Emphasizing that while he believed in the right to bear arms, he said there should be checks and balances.

“I think some common-sense measures, like universal background checks, like extreme risk protection orders, and just making sure that if someone wants to carry a firearm in public that they go through training, and a background check like we used to have," he said. "But instead of doing that, our current governor has signed into law a permit-less carry bill that allows anyone, including violent criminals, to carry a loaded firearm in public without a background check. And it's why law enforcement police chiefs’ sheriffs alike were opposed to this measure because it makes us less safe at a time of the rising crime in Texas. So, let’s protect the Second Amendment and let’s do a better job of protecting the lives of those in our communities.”

When asked about the crowd response, O’Rourke said he delighted with the turnout and enthusiasm of the crowd.

“Focusing on jobs, great schools and Medicaid are not just ideas - these are good for Texas," O’ Rourke said.

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Administration News

Texas Secretary Of State Talks Election Audit, Voting Bill And More With KVUE's Ashley Goudeau
KVUE

Texas Secretary of State John B. Scott recently sat down with KVUE's Ashley Goudeau to talk about his appointment to the position, his goals and experience so far in the role of the state's chief election officer.

Scott was an attorney in Fort Worth prior to his appointment by Gov. Greg Abbott in late October.

"Honored, in just a simple word," he said about his appointment to the position.

The Fort Worth attorney also briefly represented former President Donald Trump in a lawsuit challenging the 2020 general election results in Pennsylvania. Scott later withdrew from the case, according to The Texas Tribune.

"They had an interesting case, set of facts, went up there and the law changed a little bit because of the Third Court of Appeals ... on an elector's clause decision, and so a lot of the ideas that might have been relevant were no longer that," Scott said about his brief stint representing Trump. "So there was kind of a change of, I guess goals, and I no longer really needed to be involved in the case."

Gov. Greg Abbott appoints Fort Worth attorney as Texas Secretary of State
Scott also spoke about his role in leading the full audit of the 2020 general election in four of the state's counties: Collin, Dallas, Harris and Tarrant. The Texas Secretary of State's Office launched the audit before Scott stepped into the role. He told Goudeau that his office was "not trying to go back" and change election results, but was instead like election processes "sitting through a test" to see if the processes in place were still functioning.

"And again, people need to understand, we're not trying to go back. There is no way to go back and change any election results," Scott said in part.

Scott previously served as deputy attorney general for civil litigation for Abbott when he served as the state attorney general. Scott oversaw all civil litigation, including over 22,000 lawsuits involving Texas, according to the governor's office. He was then appointed the first chief operating officer of the Health and Human Services Commission.

After returning to private practice, Abbott appointed him as the chair of the board for the Department of Information resources, where he developed the strategic plan for technology and security at Texas executive branch agencies and boards.

To watch the full responses on the ongoing election audit, his brief time representing the former president and other topics discussed in the 24-minute interview, check out the YouTube video here.

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Texas Legislature

With 31 Lawmakers Moving On, Texas Legislature Has Room To Get Redder
By Cayla Harris

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San Antonio Express News

More than two dozen members of the Texas Legislature are retiring or running for a different seat next year, creating a slew of vacancies that could push both chambers to become redder and more polarized by the time lawmakers reconvene in 2023.

Many of the outgoing members are center-right or establishment politicians with years of experience, opening up seats for younger and more ideologically extreme replacements. In many cases, their districts were redrawn to strengthen the GOP's hold on the Legislature, eliminating all but a few of the battleground contests that tend to attract more moderate candidates.

Those changes, paired with new political maps that leave little opening for Democrats to gain ground in November, have laid the groundwork for an even more conservative Legislature, even as Republicans toast the 2021 legislative session as the most conservative in the state's history.

"The tides are shifting again," said state Rep. Dan Huberty, a moderate Republican from north Houston who is not seeking re-election. "You have different political leaders, and the constituency has a view of what they want. You're going to see a shift. I would assume it's going to be more conservative."

The Capitol is also poised to lose some of its longest tenured legislators to retirement, draining "a generation of policy expertise" on areas such as health care, education, agriculture and the border, said Brandon Rottinghaus, a political science professor at the University of Houston. The average tenure of the departing members is 13 years.

Still, it's not unusual for a mass reshuffling after a redistricting cycle, the once-a-decade process of redrawing the state's political maps. In some cases, the new maps make re-election harder for incumbents, either by drawing them out of their districts or changing the political lean. In others, the changes could open up new opportunities for sitting representatives to run for higher office.

Twenty-five representatives in the 150-member Texas House don't plan to return next year, a total that was solidified Monday, the deadline for candidates to file for the March primaries. Two incumbent Democrats are also facing off against each other in the same district, and only one of them can come back.

In the Senate, the more reliably conservative chamber, just one member is seeking a higher office. Four members plan to retire, including the chamber's most moderate members on both sides of the aisle — Sen. Eddie Lucio, a Brownsville Democrat, and Republican Sens. Kel Seliger of Amarillo and Larry Taylor of Friendswood.

In all, 31 members definitely won't return to the Capitol in 2023, and that list could grow if sitting members lose their primary or general election contests. Following the 2012 elections, after the last redistricting cycle, the final total was 49.

Redistricting fuels polarization

In both chambers, redistricting shored up GOP support across the state, making it likely that even more Republicans will head to Austin for the 2023 legislative session.

Republicans currently hold 18 seats in the 31-member Senate, and that could grow after next year's general election. Former president Donald Trump carried 16 state Senate districts in 2020, but the new map would increase that total to 19.

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It’s the same story in the House, where Republicans currently hold 85 seats. Trump secured 76 of those districts last year, but he would have won 85 of them under the new setup.

“This cycle will shape Texas politics as much as any other we’ve seen in the past decade,” Rottinghaus said. “The effect will be profound on the legislative process. I think the balance of power will lead to Republicans having a lot more control, because they're able to develop and harness the authority of leadership.”

The new vacancies have also created a field for more ideologically extreme members to run for office — a trend seen nationwide as both state and national politics become increasingly polarized, and as money floods to those candidates, said Jennifer Clark, a political science professor at the University of Houston.

“It seems that increasingly moderate members are being sidelined and not stepping up and running for these seats,” she said. “And then this is self-reinforcing, of course, because then we see growing polarization and even more of a reluctance on the part of moderates to enter into these races.”

Moderates depart the House

In 2011, Huberty was one of 37 mostly Republican freshmen in the Texas House — a mix of conservatives and moderates who rode the tea party wave into office, including three members who had served in the House previously, lost their seats and then gained them back that year.

By 2023, few of the moderate new members elected from that class will remain, with most of the remaining holdouts — including Huberty, John Frullo of Lubbock, Lyle Larson of San Antonio and Jim Murphy of Houston — declining to seek re-election next year.

Huberty rejected the idea that moderate Republicans are leaving Austin because they are fed up with the direction of the Legislature or are being pushed out by more conserative members.

“It's just the nature of the business,” Huberty said. “The average tenure of a state rep is about five years. It’s like a running back in the NFL: it doesn't last very long. I don't see anything that's a cause-and-effect, like, 'Oh my god, everything's gone so far to the right, I just don't want to do it anymore.'”

The 2023 session would be far from the first time the Legislature’s makeup has shifted to the right. But when that has happened in recent years, the more conservative freshmen were largely constrained by House leadership, led by former speaker Joe Straus, a moderate Republican from San Antonio. The current speaker, state Rep. Dade Phelan of Beaumont, rarely stood in the way of conservative priorities during his first year wielding the gavel.

“The speaker is definitely not Joe Straus in terms of his ideology,” said Jon Taylor, a political science professor at the University of Texas at San Antonio. “He’s much more conservative ... He's not as conservative, obviously, as (Lt. Gov.) Dan Patrick, but nonetheless more conservative. So, I think you'll see a push by those more on the right side of the Republican Party in the Legislature next session.”

State Rep. Mayes Middleton, a Wallisville Republican who chairs the conservative House Freedom Caucus, praised the “awesome” slate of GOP candidates running for the Texas House this cycle.

“I've talked with a lot of them,” Middleton said. “They have the fire in the belly that it takes to go fight for our shared conservative values and make sure these policies get across the finish line.”

Middleton, one of the most conservative members of the Texas House, is now running for a vacant state Senate seat with Patrick’s endorsement.

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The direction of the Legislature has also prompted some House Democrats to call it quits, though it's unclear if they will be replaced by more progressive members.

One of the departing Democrats, state Rep. Ina Minjarez of San Antonio, said she decided to forego re-election and run for Bexar County judge in part because she was fed up with the Legislature's hard-right turn — a trend she expects will continue next session.

"We're not working on the issues, on the policies that really make the quality of life better for people in this state," Minjarez said. "To me, it's become nothing but a bunch of rhetoric and a bunch of political games."

Senate drifting further right
In the Senate, Lucio's seat could be the sole competitive race next year. The other open districts are solidly Republican, and those who are likely to replace the outgoing members are ideologically further right than their predecessors — or are, at least, closely allied with Patrick, the leader of the upper chamber.

Seliger was known for frequent fallouts with Patrick, defying him at times and blocking passage of priority bills. But state Rep. Phil King, the Weatherford Republican vying to replace him, has already earned Patrick's stamp of approval.

Taylor, one of the most moderate members of the Senate, is also poised to be replaced by a more conservative successor. Those running to replace him include Middleton and Robin Armstrong, a physician backed by Attorney General Ken Paxton, a tea party favorite. (Armstrong gained attention last year when he controversially administered hydroxychloroquine to COVID-19 patients at the Texas City nursing home where he works.)

It's difficult to say whether ideological shifts in the Senate may help pass some conservative legislation that had failed this year, like a ban on COVID vaccine mandates, Seliger said. Those who replace outgoing GOP members will also be Republicans who share many of the same values as their predecessors — and some could dissent behind closed doors, he said.

"The things that go all the way through are the things approved by the lieutenant governor," he said. "That will not change."

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State News

The Newest Texans Are Not Who You Think They Are
By Tom Foster
Texas Monthly

hat an attractive crowd!" cheered Fredrik Eklund, the Swedish-born celebrity real estate broker who stars on the hit Bravo reality show Million Dollar Listing. He stood on the patio of a newly built home in Tarrytown, the tony neighborhood that hugs the shores of Lake Austin, addressing the local brokers who were packed into the yard. It was the launch party for the Austin branch of Douglas Elliman, a brokerage famous in New York and California for selling luxury homes and high-rise condos.

Eklund, who wore a double-breasted navy linen jacket, snug-fitting white slacks, and sockless dress shoes, seemed a little surprised that the crowd had matched him ankle for stylish ankle, but he didn't linger on it. Speeches had to be made, toasts given, and then he'd board a plane for Miami first thing in the morning, after

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fewer than 24 hours in the Texas capital. For the moment, his job was simply to be seen, to lend some sizzle to the occasion. Not only was Elliman moving in on Texas real estate, it had brought its biggest gun, Eklund, one of the country's top real estate brokers, who also happens to be a bona fide TV star.

Not that Austin—or this house—needed any help in the sizzle category. The three-story brick-and-shingle mansion had sold in two days for considerably more than its $16.25 million asking price, to an out-of-town buyer whose identity was confidential (but who was rumored to be to an entrepreneur from Los Angeles). During the party, celebrated interior designer Fern Santini glided from room to room in a silk Pucci caftan aswirl with soft pinks and yellows, showing off the many style innovations she'd brought to the home, which was sold fully furnished. Brass mesh paneling encircled a spiral staircase. Blue-and-gold cowhide carpeted the ceiling of the third-floor man cave. Outside on the meticulous lawn, a bearded bartender wore pointy boots with skinny black jeans and a flat-brim Stetson. This was rootsy old Austin taken to its most glamorous—or, depending on your perspective, its most absurd—conclusion.

Eklund has built his New York–based Elliman subsidiary, the Eklund Gomes Team, around what he calls the "golden triangle" of U.S. real estate: New York, Miami, and L.A. But as he and his partners got wind of Texas's booming population and economy in recent years, they started planning to expand here—to Houston, Austin, and Dallas, another kind of golden triangle. As he would tell me later, "I was in Beverly Hills yesterday, and Texas real estate was the only thing anyone wanted to talk to me about."

In the black-lacquered Tarrytown kitchen, I spoke to a visitor from California who suggested the reality was a little more complicated. "Nobody's actually moving here," he said, smiling conspiratorially. "Nobody's leaving L.A. They're looking for a tax shelter or something."

He was exaggerating, of course. For one thing, a string of high-profile corporate relocations from California had grabbed headlines (Charles Schwab to Denton County, Hewlett Packard Enterprise to Houston, Oracle to Austin), and the Elliman team had spent the day meeting with Texas economic development officials in the governor's office. Eklund's publicist, Alexander Ali, noted that Elliman was especially excited about the arrival of Tesla, which is in the process of building what it's calling its Gigafactory near the Austin airport—a structure the size of 165 football fields that would theoretically create 15,000 jobs. Ali suggested that a few high-profile celebrities who'd moved from the West Coast were inspiring others. "Elon Musk and Joe Rogan have such cult followings," he said. "And when celebrities move, people pay attention."

And then he leaned in close again and confided that he wasn't sure this whole scene was entirely welcome. "Does the community not love it?" he asked.

In fact, breakneck growth in recent years has stirred up all sorts of conflicts across the city, much as it has elsewhere in the state, which is perhaps why Ali made certain to explain that this evening's party was also a benefit for the Health Alliance for Austin Musicians.

Later that night, at an after-party downtown in a dimly lit cocktail bar called the Roosevelt Room, the waitstaff tried in vain to enforce the establishment's mask mandate while huddles of partygoers talked about the challenges and rewards of surfing this real estate wave. One Dallas agent told me there are simply too many faux chateaus in Big D and not enough contemporary homes to suit the tastes of newcomers. In Austin, developers can't build high-rise condos fast enough. In Houston, buyers from abroad—the United Arab Emirates, China, parts of post-Brexit Europe—are scooping up many of the high-end properties.

At the after-party, I also met U.S. congressman John Carter, a former Williamson County district court judge who's been a law-and-order, free-market Republican representing Round Rock and the other far-northern suburbs of Austin since 2003. Carter was talking with a circle of real estate developers, including an executive from the Related Companies—one of the largest commercial developers in the country, responsible for

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Manhattan's Hudson Yards and similar megaprojects in London, Abu Dhabi, and beyond. Though he hadn't made it out to Tarrytown for the open house ("Sheesh," he said when I mentioned the sale price), Carter had met the Elliman team as part of the firm's goodwill tour. "I think they're creating enthusiasm," he said. "They realize they don't want to change what makes us a great place to be, so let's hope they don't. We still want to be Central Texas." And how might one do that? "Be cautious," he said.

Of course, nothing about the evening—or the pace of the state's growth—seemed especially cautious.

The Big Picture

The Texas population grew by about four million people in the past decade—far more than any other state in raw numbers, and enough as a percentage to make it the third-fastest-growing state in the nation over that period, behind Utah and Idaho. Roughly 3,800 more people move here every week than move out of state. Tick down any list of the fastest-growing cities in the country, and Texas shows up again and again. Fort Worth, Austin, and San Antonio all landed on the list of cities with a population gain of at least 100,000 over the past decade, according to the U.S. Census Bureau, which released its latest data in August. Frisco easily topped the list of large cities, followed by a lot of other suburbs and exurbs, such as New Braunfels, McKinney, and Conroe.

You get the idea: the Texas population is booming.

That growth, of course, has come with plenty of hand-wringing about everything from an overheated housing market to fears of a hostile takeover by liberal coastal elites. News headlines have stoked those worries in the past two years. And then there was Greg Abbott's 2018 campaign slogan: "Don't California My Texas." But perhaps unsurprisingly, partisans may have it wrong.

For one thing, despite all the public focus on Californication, there are intriguing signs that many of the newest arrivals share key characteristics with lifelong Texans. Many are coming for abundant jobs, lower taxes, fewer regulations, and a more reasonable cost of living (which may be hard to believe for Texan buyers and renters fretting over the housing market but is a fact).

The Great Migration, by the Numbers

It's also worth noting that people moving from elsewhere make up only about half of Texas's population growth; the other half comes from births outpacing deaths. Of the people moving here, about 40 percent come from other countries and 60 percent from other states—though that balance has tipped back and forth a few times in recent years. Californians are hardly the full story.

Perhaps the most surprising Texas statistic that landed with the latest census: those of Hispanic or Latino origin, Asians, and members of other racial and ethnic minority groups made up about 95 percent of the population growth from 2010 to 2020. (95 percent!) That's 3.8 million new non-Anglos in Texas, compared with about 200,000 non-Hispanic whites. Rogelio Saenz, a demographer at the University of Texas at San Antonio and a native of the Rio Grande Valley, has a memorable way of driving that statistic home. "Essentially, that means we added the equivalent of the cities of Houston and San Antonio in [non-Anglos]," he told me. "And we added the city of Brownsville in [non-Hispanic whites]."

The census revealed just how close Hispanic Texans are to becoming a plurality. When it was published, they constituted 39.3 percent of the population, whereas non-Hispanic whites constituted 39.8 percent. That threshold will be crossed any day now, and by 2050, less than 30 percent of Texans will be non-Hispanic white.

Hispanic Texans, however, are not the fastest-growing ethnic group in the state. That honor goes to Asian Texans. While the proportion of Asians in the state remains just 5.4 percent, the group has gained nearly three times as many new members as Anglo Texans have over the past decade. Whereas Texas gained 187,252 non-

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Hispanic whites in that period, it gained 613,092 Asians. In some areas of Denton and Collin counties, north of Dallas, or Fort Bend County, just southwest of Houston, Asian immigrants are the driving force of growth.

Whatever their ethnicities, Californians are coming to Texas in much higher numbers than are migrants from any other state. In 2019 about 42 percent of net domestic immigrants came from California. For all the hyperventilating about Californians ruining certain Texas cities, however, the fastest-growing parts of the state owe much of their growth to Texans shuffling around from city to city. In fact, a primary reason Texas is growing so fast is that we tend to stick around as compared to natives of other states, meaning there's less out-migration to offset the in-migration. About 82 percent of people born in Texas still live here, making it the so-called stickiest state in the country.

Bill Fulton, director of the Kinder Institute for Urban Research at Rice University, in Houston, points out that "basically all the population growth is in the Texas Triangle," the relatively tight space defined by the Dallas–Fort Worth, Houston, and Austin–San Antonio regions. He recently wrote a book with former San Antonio mayor Henry Cisneros, "and we found that the Texas Triangle favorably compared to virtually all other mega-regions in the U.S., including Southern California and the Northeast Corridor. It is a true economic powerhouse."

That's just one of the ways Texas's population growth is changing the landscape. In the booming cities, Fulton points out, the influx of a young professional class has led to a flowering of high-rise and mid-rise apartment buildings, as well as multiunit home lots. At the same time, suburbs have become more diverse than they were in the days of white flight from urban neighborhoods, in the sixties, in part because today gentrifying city neighborhoods are edging out non-white residents. Rural and small-town Texas, meanwhile, is shrinking. In fact, 142 of the state's 254 counties are declining in population, some of them precipitously. Schleicher County, between San Angelo and Sonora, lost 29 percent of its population in ten years, the steepest drop in the state.

The diversification of the suburbs could fundamentally alter the political map by changing reliable Republican standbys to perennial toss-ups. Dying small towns carry less electoral weight. Gerrymandering of districts, now pursued as avidly by Republicans as it once was by Democrats, will continue to redraw electoral maps to maintain the current political order. But at some point, likely soon, the old assumptions will simply no longer hold true, and the keys to winning Texas will change.

The continued growth of the Texas economy, meanwhile, will increasingly rely on newcomers from other states and countries—to both provide jobs and fill them. In turn, pressure will mount for Texas to better educate and train its homegrown workforce to remain competitive, especially as our population ages. Dramatic shifts in the economic and cultural landscape of the U.S.—as well as in Texas itself—have landed the Lone Star State an opportunity to lead the country into the future. Figuring out how to respond requires understanding the forces that brought us here.

The Growth Propellant

Half an hour's drive southwest of Killeen, within sight of U.S. 183, a patch of prairie has been blasted into a barren crater by eruptions of highly refined kerosene and liquid oxygen that combust and emerge as a torrent of fire from a tangle of tubes and wires—the guts of a rocket engine test model—with such violence that the technicians in charge must watch from a control center eight hundred yards away.

Here, at the edge of the unincorporated Central Texas community of Briggs, which has a population of about 430, is where Tom Markusic met me on a blazing hot afternoon. He's the CEO and founder of Firefly Aerospace, a company that builds rockets to take satellites to space and ultimately, he hopes, to ferry supplies to the moon and other celestial bodies. The company recently won a $93.3 million contract with NASA to construct a lunar lander, and it has built a simulated moonscape here in Briggs, alongside the test-firing field and a small rocket factory.

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Markusic, who worked for NASA, SpaceX, Blue Origin, and Virgin Galactic before launching Firefly in 2014, chose Texas for his company's headquarters in part because he knew nobody would get in his way. It's the same reason Jeff Bezos tests and launches his rockets near Van Horn, and Elon Musk launches his in Boca Chica. "There's a different view of property ownership in Texas," Markusic told me as we settled down in a dark conference room inside one of the factory buildings. "There's a clear cultural expectation that your land is [yours] to do with as you choose—within the confines of the prevailing zoning and such, of course. So, the neat thing is, so long as you are a good neighbor, people leave you alone and let you do what you need to do."

"Time is our most precious commodity," Tom Markusic explained, "and we can move a lot faster here in Texas."

In particular, Markusic explained, he needed the freedom to act fast. Firefly, which was valued at more than $1 billion earlier this year and plans to grow its workforce from roughly three hundred at the start of 2021 to nearly a thousand by the end of 2023, competes with some of the world's most deep-pocketed and aggressive entrepreneurs. "Time is our most precious commodity," Markusic explained, "and we can move a lot faster here in Texas." In other states, he said, "you're almost working from a position of presumed guilt, and then you have to prove you're not doing anything wrong. In Texas, it's set up to presume that you're not breaking the law. That allows us to operate our site without extensive permitting. The only permitting that's required at this site right now that I'm aware of is our septic." The company has to abide by state and federal environmental laws, he added, but there were no bureaucratic approvals to secure before his team could start firing up the rocket blaster.

He compared that to a previous experience when he was building a test facility for Virgin in California: "When we went in to get the permitting, they wanted to classify it as a power plant. And you can imagine if you want to build a power plant, that's going to be a tough permitting slog. It was just a silly, one-size-fits-all way of thinking."

His comments echo those of several high-profile recent California defectors, including Musk, who told the Wall Street Journal last December, upon announcing his move to Texas, that he wished California would "just get out of the way" of innovators. That was a couple of weeks after Joe Lonsdale, an influential venture capitalist and cofounder of big-data contractor Palantir, explained his move to Austin from Silicon Valley, also in the WSJ. "Forty years ago . . . you could accomplish anything in the Golden State," Lonsdale wrote in an op-ed that quickly went viral. "Government policy facilitated the entrepreneurial spirit. Dreamers and doers could thrive. The burst of activity in tech, finance, medicine, energy and many other industries lasted for decades. But now a state like Texas provides these opportunities without the problems and baggage California has accumulated." Just a few years ago, calling Texas more fertile for innovators than Silicon Valley would have raised more than a few eyebrows among the entrepreneurial elite. Texas is home to fifty Fortune 500 companies, sure, and its GDP is nearly $2 trillion, more than that of any state not named California. But the future was being built elsewhere—specifically the West Coast. Now that has changed, and the pandemic hastened the shift. In Musk's case, legal battles with officials over COVID-19 restrictions at Tesla's Fremont, California, factory were a clear catalyst for the company's eventual announcement, this October, that it would be moving its headquarters to Austin.

Of course, wealthy moguls and investors also stand to reap handsome personal financial benefits by setting up in Texas. The state famously doesn't charge income tax (though high property taxes make up the difference for a lot of homeowners). More importantly for the investor class, Texas doesn't charge capital gains tax. California's personal-income tax, by comparison, is the highest in the U.S., at 13.3 percent for sums of more than $1 million a year. The capital gains rate is similar.

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And then there are the corporate incentives. Texas has long been known for luring companies away from other states with generous packages containing various tax breaks. Tesla recently negotiated a tax break worth nearly $60 million over 10 years to build its Gigafactory in Del Valle, in exchange for investing $1.1 billion in the plant and vowing to hire at least half of its expected employees from Travis County. At the time of this writing, Samsung was negotiating with Williamson County and the City of Taylor to build a potential $17 billion chipmaking plant there. The South Korean electronics giant had rejected an initial offer from the City of Austin that included almost $650 million in incentives over 10 years; the company wanted a 100 percent tax abatement for 25 years.

Whether economic incentives for business relocation come from a city, a county, or the state's Texas Enterprise Fund (former governor Rick Perry's legacy), they're almost always controversial, with opponents pointing out all the ways they can strain existing infrastructure—roads, water, schools, the electric grid—and end up costing a community as much as it gives away in incentives. The math of whether a deal ends up benefiting a community can be endlessly debated, though. Proponents argue that landing a big corporate relocation spurs investment in communities and creates jobs (though Perry also had terrific luck getting donations from a source tied to the companies his administration locked in with incentives, as a New York Times investigation famously found). A new plant like Tesla's or Samsung's will ideally lead to local home construction, investment in the local service economy, and eventual relocation of suppliers.

"HP Enterprise, Google, all these technology-based companies cannot meet their workforce demands with the current Texas workforce," said Steven Pedigo. "It just doesn't happen."

Regardless of how the math of individual economic development deals stacks up, virtually everyone agrees there's value in diversifying the state's economy. Though Texas relies a lot less on oil and gas than it did a few decades ago, fossil fuels still represent one of the largest sectors of the economy and the dominant one in the state's largest city, Houston. This puts the state at risk as the energy industry transitions away from petroleum. As Rice's Bill Fulton put it, "Houston is at a critical juncture right now. The business leaders have to get out in front to the energy transition so we remain the energy capital of the world but not the fossil fuel capital." Failing to make that shift, he said, would make Houston "the next Detroit." While Texas has, in recent years, added jobs in software development and cloud computing, those gains have been outpaced, sometimes drastically, by those in California and other states. Which only underscores the urgency many local leaders feel.

Even Firefly wrangled roughly $1.2 million in incentives from the City of Cedar Park when it established its headquarters there, back in 2014, and earlier this year it picked up an additional $4.3 million in incentives. That package, in addition to paying the company for each job it creates (and for purchasing and renovating a building), shells out $10,000 in cash directly to each employee who buys a home in Cedar Park. In return, Firefly pledged to create nearly seven hundred jobs in the area, with an average salary of $90,000, by the year 2030.

That sounds like a big benefit, but there's a catch, not just in Cedar Park but all across Texas: companies that relocate and expand here find it tough to hire Texans to fill many of the kinds of jobs that require the most education, expertise, and experience. "We haven't done a very good job of educating our workforce," said Steven Pedigo, at the University of Texas at Austin's LBJ Urban Lab. Those who come to Texas from other states are more likely to have college degrees than native Texans. "HP Enterprise, Google, all these technology-based companies cannot meet their workforce demands with the current Texas workforce. It just doesn't happen."

Which raises a question: If not Texans, who exactly is filling all those new jobs?

The Art of the Suburb

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The immaculate streets of Frisco, in the far northern reaches of metro Dallas, nearly sparkled under a cloudless sky. It was a Thursday morning, and Dana Baird, a former Dallas TV news reporter who's now the City of Frisco's director of communications, piloted her Honda SUV from one commercial development to another, tracing the history of one of the fastest-growing cities in the country. First up was the Stonebriar Centre ("Our first economic engine," Baird said). Then the Frisco RoughRiders minor league ballpark ("Our first sports venue—the convention and visitors bureau now calls us Sports City USA"). Then the Ikea, the headquarters of the Dallas Stars National Hockey League team, the sprawling Hall office park, the stadium and practice facility of the FC Dallas professional soccer team, and ultimately, the pièce de résistance: the Star District, the gleaming headquarters of the Dallas Cowboys and surrounding office buildings, restaurants, shops, and other amenities.

It was 1987 when Baird's boss, city manager George Purefoy, settled into his job leading Frisco's development. A native of Mineral Wells, he'd been the city manager in Columbus, a hamlet that abuts Interstate 10 between Houston and San Antonio, when he decided it was time to level up and head somewhere with more growth potential. "I took out a map one night, and for some reason I followed Preston Road up through the Metroplex, because it was kind of a growth corridor, and it came up to Frisco," he told me. At that time, it had around five thousand residents and was essentially still a small rail town. But Purefoy saw it as a kind of suburban start-up, a little old place that could eventually grow into something altogether different. "So, I thought, 'If the city manager job ever opens up there, I'll apply.' And that night my wife and I prayed on it, and not one week later I got a call from the City of Frisco asking me to apply."

A soft-spoken, throwback gentleman who brings to mind Ward Cleaver, Purefoy became the first and only city manager Frisco has ever had—though he likes to joke that he's had an entirely different job every five years as the city has ballooned. Today's Frisco population of around 200,000 is almost double that of a decade ago, and the city projects it will reach 300,000 in the next five years or so.

There are a few keys to the success of Frisco. For one thing, abundant land and the expectation of growth: even before Purefoy showed up, city leaders had annexed land on both sides of multiple roads that stretched out from the center of town, creating what he calls "octopus arms" that would come to frame the area's eventual sprawl. Among Purefoy's first acts was securing an abundant water supply for the town and cleaning up the finances. He was essentially laying a foundation on which to replicate or improve on what the city of Plano, just south across the Sam Rayburn Tollway, had begun building a few decades prior.

Perhaps most important to Frisco was the counterintuitive fact that Dallas Area Rapid Transit (DART), the metro area's commuter light-rail system, did not extend past Plano. Whereas the communities served by DART have to dedicate a one percent sales tax to the rail system, Frisco voters elected to use that same cut of money to incentivize businesses to move in and also to buy land for parks and other amenities. The result is that entertainment is so plentiful that many Frisco residents have little reason to leave. The city is less a bedroom community for Dallas than a thriving place all its own that just happens to be adjacent to one of the largest cities in the U.S.

In economic development circles, Frisco is known for its mastery of public-
private partnerships. To help build the Star District, for instance, the city, its economic and community development corporations, and Frisco Independent School District kicked in a collective $115 million, and in return Frisco's high school football and soccer players get to use the Cowboys' spectacular indoor stadium. The whole deal came together in three months, Baird told me—lightning speed for a giant commercial development on prime property in a city center. The same strategy built Toyota Stadium, which FC Dallas shares with the high schools.

"We're basically a city of immigrants," George Purefoy said, "either from within the United States or from outside the United States."

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The result is a town that regularly lands on the lists of best places to live and best places to do business in America—which in turn helps it stay on the lists of fastest-growing places. And it's not all strip malls and subdivisions. Frisco has the second-largest skate park in Texas, after Houston; the largest private collection of contemporary Texas sculpture; and one of the largest collections of historic train cars in the Southwest.

It's not slowing down anytime soon. Earlier this year the military-grade eyeglass maker Wiley X announced it was coming to Frisco from Livermore, California, and that it hoped to bring its one hundred employees along. In 2019 iconic Texas brand Dr Pepper announced it would move its headquarters from Plano to the Star. The Professional Golfers' Association of America announced in 2018 that it would move from Palm Beach County, Florida, to Frisco. The smoothie company Jamba moved there in 2016. The list goes on.

The competition for corporate relocations or expansions can be a full-contact sport among cities—sometimes even adjacent ones—but the effects often ripple out. Though Frisco lost out on one of the greatest economic development deals in the area's history—neighboring Plano landed Toyota's North American headquarters, which was relocating from Southern California—the runner-up still managed to reap the benefits. The carmaker's campus, which opened in 2017, sits at the northwest corner of Plano, close to residential areas of Frisco. Baird remembers running a trade booth back when Toyota employees were starting to explore the area and the company had set up a kind of relocation bazaar at a hotel. Because Frisco had so many new neighborhoods sprouting up, thousands of Toyota employees ended up settling there, leading to rumors of whole neighborhoods being colonized by transplanted Californians. Today, the median household income is about $127,000—more than double the number for Texas overall—and the median home value is about $400,000.

When I asked Baird whether residents of Frisco ever grouse about all the growth and newcomers, she looked at me sideways. Purefoy pointed out that in a place whose population is almost entirely newcomers, it would be hard to look askance at other fresh arrivals. "We're basically a city of immigrants," he said, "either from within the United States or from outside the United States."

Sunitha Cheruvu, who helped lead an effort to build a Hindu temple in Frisco.

The New Face of Immigration

If the city that George Purefoy built is a triumph of capitalism and Texas's natural inclination toward sprawl, it is also a marvel of something more surprising: the diversification of the suburbs in terms of race, ethnicity, and national origin.

According to the 2020 census, Texas is now the fifth-most diverse state in the country, just ahead of New Jersey and New York. (At the top of the list: Hawaii and California.) And in the major metro areas, the census showed a clear pattern of cities with static diversity levels abutting suburban counties where diversity is surging. One measure of diversity is the census-calculated Diversity Index, which demonstrates the likelihood that any two people in a community will represent different ethnic or racial groups. In Dallas County, the Diversity Index grew by just 2 percent from 2010 to 2020. In Collin County, which includes part of Frisco, that number grew by 19.8 percent.

In Frisco, the largest and fastest-growing minority group is Asian Americans, who make up nearly 21 percent of the city's population. Some 14 percent of the surrounding county's population traces its origins to India, with those hailing from South Korea, Japan, and China making up much of the rest. Many are new not just to the North Dallas suburbs but to the U.S. Nearly 23 percent of Frisco residents were born in another country.

Anamika Mukherjee, a preschool teacher, was born in India and moved to Frisco five years ago, after her husband's job had taken them to California, Connecticut, Brazil, and, finally, North Texas. She told me that Frisco sometimes reminds her of Little India, a famously large ethnic enclave in New Jersey that she and her

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husband used to visit when they lived in Connecticut. “I have three Indian stores within easy reach of my house,” she said, “and you can find every single thing you might want.”

She can thank, at least in part, Sunitha Cheruvu. Born in southern India, in the state of Andhra Pradesh, Cheruvu grew up in New York and New Jersey. After she met her husband, who is from Texas, she moved with him to Plano. They were happy, but as practicing Hindus they had to travel more than thirty minutes to worship at a temple in Irving.

She and members of five other families from the area joined forces to build a temple nearer to their homes, and in 2009 they ended up buying a piece of land in Frisco, on the site of a former gardening company. They gathered in a small trailer while their first permanent building was under construction. And then, in 2015, they opened a second, larger, gleaming ivory structure that they believe is the largest Hindu worship hall in the nation, at 34,000 square feet.

Cheruvu now lives, along with many other members of her faith, in the Eldorado Crossing neighborhood, in a two-story brick-facade home whose backyard fence adjoins what’s now called the Karya Siddhi Hanuman Temple. “I can look out my window and see the rajagopuram,” she told me, referring to the temple’s ornate entrance tower, which rises seventy feet between two large elephant statues. “It’s beautiful during sunrise and sunset.”

In fact, all throughout Frisco, the suburban shopping centers and green spaces show signs of diversity, such as Korean dessert shops and Taiwanese teahouses. The Frisco school district recently introduced a three-week cricket unit as part of the PE curriculum. The student body at Roach Middle School, near the Hanuman Temple, is 37 percent non-Hispanic white, 28 percent Asian, 18 percent Black, 11 percent Hispanic, and 6 percent of a category that includes American Indian, Pacific Islander, and two or more races. At McSpedden Elementary, just down the road, 68 percent of the students are Asian. A few miles away in Plano, Russell Creek Park is the only park in North America to boast seven cricket pitches.

In 2019 Cheruvu helped start the City of Frisco’s Inclusion Committee, of which she’s the vice chair. The committee has polled residents about issues regarding diversity and inclusivity, and it has spearheaded events such as the first official city celebrations of Diwali, Kwanzaa, and Lunar New Year.

All of which has given Frisco a reputation far beyond the state’s borders. As a Dallas Morning News story put it, shortly before the temple’s opening, “Young parents in India know Frisco is the place to raise a family.” The story cited DFW-based tech companies as part of the allure but credited word of mouth as the greater force. Cheruvu told me the same thing. A week after the temple opened, it hosted a livestreamed chant marathon for nearly eight hundred that lasted more than 24 hours and set a Guinness World Record.

To demographers who study Texas, the story of Indian Frisco is both fascinating and no great surprise: fascinating because it’s such a transformation from just one or two census cycles ago, and no great surprise because Frisco is hardly the only place in Texas to see the trend.

The call-and-response continued: It is even harder . . . to make . . . a new home . . . Everything is new . . . Everything is strange.

It was a few minutes before the lunch bell in Johnny Rios’s English language arts class at the Language Institute for Newcomers, a specialty school in an annex building that connects two adjacent high school campuses in the Alief Independent School District, which straddles the city limits of Houston on its southwest side. The fifteen teenagers in this class—seven Hondurans, four Guatemalans, three Salvadorans, and one Nicaraguan—attended LINC because they were new to the U.S., and some had no experience with English. They were reading Growing Together, by the Cuban American children’s book author Carmen Agra Deedy.

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LINC, which was established in 2003, typically serves about three hundred students. They complete a one- or two-year program, depending on how much help they need (some come with no schooling background whatsoever), after which they join the rest of the student body at one of the district's high schools: Elsik or Hastings right next door, or a third school a couple of blocks away. Together, the three serve an astounding 11,200 students.

Much has been made in recent years in the national media about the diversity of Houston, and no place showcases it better than Alief. A mostly lower-income area, Alief is one of the country's most diverse communities. Unlike that of Frisco, Alief's population of roughly 113,000 doesn't fluctuate much, but every year droves of newcomers land here, as others who are more established disperse to the wider region. To drive through Alief is to tour the world—Vietnamese stores on this block, Chinese stores on the next, followed by Salvadoran shops, Mexican shops, Nigerian shops, and on and on. The distinctive rooflines of mosques and Buddhist temples punctuate the horizon.

In her twelve years working for Alief ISD, first as a teacher and now as the ESL department chair for LINC, Dulce Segovia has seen wave after wave of migrants from different parts of the world. There were the hundreds of Burmese students who showed up six years ago. Four years ago, there was a surge of unaccompanied boys from Central America. Today the district is expecting hundreds of Afghan refugees any day, many of them kids. "For me, this is very raw and real, because I went through the same thing forty-two years ago," Segovia told me. She's a former refugee herself, having arrived in Alief in 1980 with her aunt after escaping war in El Salvador. "We asked for asylum, and we did exactly what our students are doing now"—worked hard to find their place in a new country. She referred to the migrants massing at the border in Del Rio, as thousands of Haitians had in the weeks right before I visited Alief, and remembered an incident from childhood when someone called Salvadoran refugees cockroaches—"because there were so many of us and they couldn't get rid of us."

Segovia grew up in the nearby Sharpstown area, earned degrees in English and in curriculum and instruction at the University of Houston, and eventually came back for work. "Alief is family," she and her colleagues like to say. In some ways she means that literally: many immigrant students, even unaccompanied minors, end up in Alief because they have extended family members in the area. Roughly 65 percent of students live in apartments or multifamily units.

Some also arrive in the community with pressing needs: no shoes, no familiarity with indoor plumbing. The school district provides vision and dental care, social workers to visit families, and other basic services. As superintendent HD Chambers puts it, "Not only are we teaching children how to read and write, how to add and subtract, but we're teaching and helping people from all of these different ethnicities and cultures how to come in and adapt to our country."

Chambers, who started his career as an assistant football coach and economics teacher in the Aldine district, on the north side of Houston, has, to his surprise, ended up dedicating his career to educating diverse populations. He landed in Alief ten years ago and has built a reputation as a passionate and innovative leader whose mantra is "meeting students where they are—as opposed to where we wish they were."

It's a mission that not only resonates with colleagues like Segovia—who cites it regularly—but derives from what sounds like a deep sense of patriotism. For an educator, Chambers said, the only response to the rapid diversification of the population "is to do everything you can to make sure that these individuals . . . regardless of where they come from, are educated in a way that will sustain our republic and our democracy and the things that our country was founded on."

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Of the population changes Chambers and his colleagues have observed in their district, one of the starkest in recent years has been the fluctuation in Texas's Hispanic population: even as Hispanic Texans become the state's dominant demographic group, fewer and fewer Mexicans are migrating to Texas. According to one analysis by Rogelio Saenz, of UT–San Antonio, Mexican migration to Texas has plunged. There are multiple reasons for this, from militarization of the border and the aging of Mexico's population to the improving economic fortunes of Mexican women, who are having fewer children later in life. Of the Mexicans who do come to the U.S., many are now better-educated and have higher incomes than in the past. This year the Hispanic population at LINC largely comprises refugees from Central and South American countries—most from El Salvador, Honduras, and Guatemala, which are wracked by organized crime and sagging economies.

Whereas some years the LINC classrooms serve kids speaking dozens of languages (there are more than ninety languages spoken in the surrounding community), in 2021 the vast majority of students are native Spanish speakers. Of the Hispanic students, very few come from Mexico. "Can you imagine the ganas, the desire, to better their lives?" Saenz had asked me, referring to Central American refugees. "They are walking, sometimes unaccompanied, without their parents, hundreds or thousands of miles, and then we have them here and have the possibility that they can be our future workforce."

A few blocks from LINC, in a sprawling, glassy new building that opened in 2018, Jennifer Baker works to make that possible. Baker helps run the Center for Advanced Careers, where Alief students train to work in construction, IT, health care, and other high-demand industries that don't require college degrees for many well-paying jobs. There are state-of-the-art robot arms in the advanced manufacturing lab. There's a working pet day care in the veterinary science lab and a working auto shop. In the wood shop, they build furniture for Mattress Mack at Gallery Furniture. "They have to make money to pay for our operations," Baker said.

With Hispanic Texans on pace to be the dominant demographic group, their lower average educational attainment looms as a crisis for the state's economy. Whereas nearly 95 percent of non-Hispanic white Texans aged 25 and over have at least a high school degree, that number is less than 70 percent for the Hispanic population. One of the ways that students who are starting at a disadvantage can gain an edge, superintendent Chambers believes, is by getting vocational training that directly meets employers' needs. Vocational programs are nothing new in high schools, of course, but the scope of the program in Alief looks more like that of a community college, and its partnerships with employers run deep.

"You know the company Trio Electric?" Baker asked me, referring to the Houston-based commercial electrical contractor. "They wrote our electrical curriculum. Their workforce shortage is tremendous. They provide all the equipment, all the supplies. And then after the students' junior year, they give them an internship in the summertime that pays four thousand dollars. Kids in this neighborhood making four thousand dollars—you might as well tell them they're making a million bucks. So then, senior year, they're more excited to finish out the program. And then they go in for interviews, and up to twenty-five of our kids will have a good chance to get hired."

As she spoke, a voice periodically boomed out of the PA system advising prospective students to rotate to the next lab. Signs in the lobby welcomed a delegation of recruiters from CenterPoint Energy. "I've given over five hundred tours of this building," Baker said, her voice catching, "and I spend a lot of time showing people what my kids can do. A lot of them get it, but we're still in the baby stages of businesses realizing the gold mine of talent they have here."

The Not-So-Great Sorting

Peter Rex's Texas journey doesn't have much in common with that of the students at LINC. The 39-year-old embarked on a career in business, he told me, when he realized, after consulting with the abbot at a Catholic monastery, that capitalism would be his best avenue for serving Jesus and helping people on the widest scale possible. Rex subsequently made a bundle of money for himself and his investors by buying and managing

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undervalued apartment complexes in Texas and Florida after the Great Recession, from what at the time was his base, in Tampa. In 2016 he moved to San Francisco to start a portfolio of real estate and insurance tech businesses, and then moved to Seattle in 2018 to be closer to Amazon's and Microsoft's headquarters and learn from their empire-building prowess.

In both of those West Coast tech hubs, he realized, some of his employees couldn't afford to buy homes. But more importantly, he wrote in a June 2020 WSJ op-ed, "both [cities] have become hostile to the principles and policies that enable people to live abundantly in the broadest sense." In Rex's view, he wrote, not only were West Coast state governments stifling free enterprise, but the culture was stifling freedom of speech and freedom of religion. "In both San Francisco and Seattle, many of our Christian and Muslim friends and employees have expressed concern that their deeply held views are being driven from the public square."

Rex wrote the op-ed to announce his move to Austin. "In Texas, the quintessential American ideals of family, faith, and freedom still reign supreme," he wrote, adding that "as the West Coast becomes more insular and exclusive, other parts of the country will become the biggest drivers of tech innovation." The column came out at the height of the first wave of the coronavirus pandemic and the presidential campaign season. Conservative media and the financial press quickly elevated Rex's move as a signal moment—and talked up Rex as a tech titan (which he's not). As the pandemic drove a wave of individuals and companies to move to Texas and Florida from California and New York, Rex's story came to define part of the narrative: migrants were leaving the coastal hubs not just because they couldn't justify overpaying for shoebox apartments during a lockdown but because they'd finally had it with failed liberal policies that created expensive cities riddled with crime and homelessness and livable only for the superrich.

"We didn't feel safe talking about having voted for Donald Trump in 2016," Marie Bailey told me.

For Marie Bailey, a realtor who lives in Prosper, just north of Frisco, that line of thinking sounds familiar. When she and her husband moved their family from El Segundo, California, to North Texas four and a half years ago, they were effectively giving up on their lifelong home for reasons she cites as "cost of living mixed with politics. We didn't feel safe talking about having voted for Donald Trump in 2016," she told me. "And then you get a seven-hundred-dollar car-registration bill, and voters vote in higher gas prices—I mean, who does that?" The Baileys bought a new-construction home in the Windsong Ranch community, across the street from a lagoon with an artificial beach, and Marie quickly spotted a business opportunity to help other escaping Californians find similarly soft landings. She got her realtor's license and, to find clients, started a Facebook group called "Move to Texas From California!" Today that community has 34,700 members, and Bailey's business is booming.

From her perspective, conservative Californians' desire to flee has grown throughout the pandemic, as frustrated families sought a place where their kids could return to school sooner. "I had people coming here crying when they'd see kids playing on playgrounds," Bailey said. "They couldn't do that in California." Although she shares those sentiments and sees migration to Texas as a "red wave," Bailey also knows the full picture is complicated.

In fact, Bailey and Peter Rex landed at the center of an argument that has circulated in political circles for years. It holds that a great ideological sorting is underway, in which like-minded people gravitate toward one another, often across state lines. Those who see California as a nanny state will escape to a more enlightened Texas, while those who see Texas as a fundamentalist petro-state will escape to a more enlightened California or Colorado. Swap California for New York and Texas for Florida, and the argument stays largely the same.

At the same time, many Texans have seized on Governor Abbott's rallying cry "Don't California My Texas." Indeed, his 2018 reelection campaign played out against a changing electoral map. Barack Obama lost Texas by sixteen points in 2012. Hillary Clinton lost the state four years later by nine. And Joe Biden came within six.

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Some previously deep-red suburban counties now trend purple or even blue. Abbott was arguing that new Texans might be responsible for the change and that it wasn't welcome (though he's also, at various times, argued the opposite: that folks coming from California are conservatives who should be embraced).

But according to Derek Ryan, a GOP political consultant who leads voter-targeting efforts for candidates up and down the ballot, there's very little data to support either argument—that Texas is growing more conservative because of ideological sorting or that it's becoming more liberal at the hands of Californians. One of Ryan's clients is Congressman John Carter, whom I'd met earlier at that bar in Austin, and who represents several fast-changing suburban cities. Ryan has watched the evolving Texas suburbs closely; he's seen migration patterns in person and in the data.

To identify likely new Texans in the data, Ryan looked at those who registered to vote after the 2018 election and ended up voting in 2020, and then he zeroed in on the subset over the age of thirty—to rule out young people, including longtime Texas residents, who were probably registering for the first time. He turned up 1.3 million voters, "but trying to figure out their political ideology is tricky because they haven't necessarily voted in a Republican or Democratic primary," he said.

So, he turned to modeling data, the kind of information voter-targeting groups use to identify friendly targets based on their consumer spending habits, income levels, homeownership, and so on. "There are literally hundreds of data points to model people and determine if they're likely Democratic or Republican voters," he explained.

According to Ryan's best analysis, 50.4 percent of his possible new Texans were likely Democratic voters, and 49.6 percent were likely Republicans. "So, you know," he said, "we hear a lot about these people moving from blue states and bringing blue-state politics with them, but it doesn't necessarily appear that that's the case. It's closer to right in the middle. There are certainly some hard-core liberals moving here that are still voting that way, but it appears that it's a wash as far as Republicans versus Democrats."

Rice University's Bill Fulton has looked at myriad possible explanations for the ebb and flow of migration from California and found that, as he wrote in a post on the Kinder Institute's website, "the driving force is not a pull into Texas but a push out of California: home prices." That is, when the price of a house goes up on the West Coast, people come to Texas. When the prices ease, fewer make the move.

Of course, Fulton published that piece before the governor signed one of the nation's most restrictive abortion laws, effectively outlawing the procedure, as well as one of the nation's most severe restrictions on voting—on top of a law discriminating against transgender students and one permitting the open carry of handguns without permits or training. The City of Chicago's economic development arm took out a full-page ad in the Dallas Morning News trying to lure alarmed Texans away. The real estate bonanza had, meanwhile, prompted northwest Arkansas to begin trying to lure away Austinites being priced out, and California-based companies such as Salesforce began offering to help any of their Texas employees to relocate in the face of Abbott's actions.

Still, Fulton speaks for many who study migration into the state when he says he doesn't expect the flow of new Texans to slow down anytime soon. "Texas may be hot in the summer, and you may not agree with the politics. It may be sprawling, and you may have to buy an F150 pickup. But it is probably unparalleled in the country right now as a place of economic opportunity." For many, he said, it's still "a place where you can get ahead."

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Education

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Houston-Area School District Drops Gender-Based Policy On Long Hair
By Allyson Waller
Texas Tribune

A Houston-area school district has reversed a dress code policy that prohibited male and nonbinary students from wearing long hair — more than a month after a lawsuit accused the district of enforcing a discriminatory rule.

The Magnolia Independent School District's school board voted on Monday night to alter its dress code and eliminate the policy, according to the American Civil Liberties Union of Texas. The ACLU of Texas said the district reached a settlement agreement that allows for students who were previously disciplined under the school's former hair policy to "have their records expunged."

The district confirmed Tuesday that under the agreement, male students will no longer have to keep their hair within a certain length. It will also make its dress code policy on earrings gender-neutral. The district's 2021-2022 student handbook currently says earrings should be worn only by female students and "earrings worn by boys will be confiscated and may not be returned to the student."

The ACLU of Texas announced in October it was suing the district on behalf of seven students over the district's hair policy, which stated that hair must "be no longer than the bottom of a dress shirt collar, bottom of the ear, and out of the eyes for male students." The lawsuit claimed the district violated students' right to equal protection under the Fourteenth Amendment and Title IX, a federal law that prohibits discrimination on the basis of sex in educational institutions that receive federal dollars.

In a temporary ruling in late October, Chief Judge Lee H. Rosenthal of the United States District Court for the Southern District of Texas said plaintiffs' legal arguments had "a substantial likelihood of success." Last month, Rosenthal issued a preliminary injunction that required the district to suspend enforcement of gender-specific provisions in its dress and grooming code.

Brian Klosterboer, a staff attorney with the ACLU of Texas, said the school board's decision Monday might lead other school districts across the state to take a closer look at their gender-based dress code policies and reconsider them.

"School districts shouldn't wait until students are actually harmed under these policies, and they've been forced to file complaints or lawsuits," Klosterboer said. "They should take proactive steps to update their dress codes in accordance with federal law."

Concerns over dress codes have sprouted across Texas school districts in recent years, with the ACLU of Texas estimating that nearly 500 of the state's more than 1,200 districts have "outdated and unconstitutional dress codes."

The issue has already attracted legal scrutiny in other parts of the state. Barbers Hill ISD near Houston was sued last year after two Black students who wore their hair in dreadlocks were punished for breaking the district's hair policy for male students. The case is still ongoing, and a preliminary injunction was issued in August 2020 that suspended enforcement of the hair policy.

Danielle Miller, whose child Tristan is nonbinary and was one of the seven plaintiffs in the lawsuit against Magnolia ISD, said in a statement she and her family are relieved by the district's decision to get rid of its hair length policy.

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"Our community never gave up fighting to put an end to this harmful policy," Miller said. "We hope today's result will be a sign to other school districts in Texas that changing discriminatory policies like these is the right thing to do."

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Parents Upset 14-Year-Old Students At Texas School Assigned 'Pornographic' Book
By Christina Aguayo
KTSM

A reading assignment at Eastlake High School is being described as pornographic and has parents concerned, saying the sexually graphic nature of the book is completely inappropriate and should not be assigned to students, especially with out parental consent.

The book is called The Perks of Being a Wallflower and it's not new to controversy. In fact, according to Marshall Libraries, it has been challenged or banned by numerous entities every year since 2003.

Elda Marmolejos, who has a child enrolled in Eastlake High, said she feels the book should not be assigned to such a young age group, especially with out parental consent.

"My concern is that my child was assigned a very inappropriate book by his English Teacher. There was no parent consent form sent out for me to sign. He basically said that the book was graphic and they needed to act like adults. The content is very inappropriate. It talks about sex, drugs, alcohol [and] minor abuse. It goes into detail about teenager being raped and she goes to get an abortion without parental consent. It is very graphic and it is very inappropriate for such a young age group to be reading and just having access to it at a Texas public school. [There is also a part] Where two boys are having sex and the book goes into detail about [it.]

Judge linked to racial slur video says sedative left her with 'zero recollection'
Marmolejos said she feels as though the school let her down.

"I believe that a teacher's job is to teach children or students how to think not what to think. I think it should be up to the parents to decide what's appropriate. We try to teach them morals at home we try to teach them wrong from right.

Such sexual content is something that a parent should sit down with their child and talk about. That is not the teachers role. We have lived in the state of Texas for years, my kids have grown up here and I never thought that I would have to be dealing with this.

As far as parent consent, I think the teacher should have used more transparency. He did send out a syllabubs at the beginning of the year but the only thing it said is that there was controversial material. That is broad."

Marmolejos said she met with the Principal of Eastlake High School and librarians from the school and the SISD, but she said she felt they spent the entire meeting trying to 'defend' the teacher and convince her they followed policy.

In a meeting that was taped by Marmolejos, with the consent of all in the meeting, a school administrator said, "What I want to do is we're validating why he chose the book – we want to go through the rest of the policies legal and local."

At another point in the meeting another school administrator said, "Is the content appropriate for the freshman? I think you and I can both agree its very very questionable. It's probably not the most appropriate."

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Popular payroll system targeted in ransomware attack
Marmolejos also spoke at an SISD board meeting however the book was not on the agenda.

In a previous interview with KTSM 9 News Anchor Christina Aguayo, Governor Greg Abbott talked about his order to remove pornography from schools, and launch investigations into those schools who kept in on the shelves,

Marmolejos said she would do anything to safeguard her children, even alert the governor, who signed an executive order which says pornography must be removed from public schools

"I saw the image that was in one of these books that was available for students in schools and it is clearly unequivocally pornography. There is a state law against providing pornography to anyone under the age of 18. There's a state law against providing porn to anyone under the age of 18 and that's exactly what some of these schools have done, as a result these schools have been immediately removing these books from their libraries. That's what we expect from these schools, and more importantly that's what parents expect from these schools. Parents they want their child to go school and learn not to be indoctrinated into something that would involve pornography. My job as governor and the job of education leaders in the state is to make sure we are educating our children to be competitive in the workforce not indoctrinating them with things like pornography. - Governor Greg Abbott

Socorro ISD officials tell KTSM 9 that their policy allows parents to request a formal review – after the informal inquiry that was made about this particular book. They add that the school and the district are reviewing how parents are notified about books with a graphic nature being used in class.

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Analysis: Some Texas Lawmakers Are Worried About The Wrong Reading Problem
By Ross Ramsey
Texas Tribune

Texas has a problem that's bigger than the stories in the books at the school library.

If you were put on the spot and asked what needs to be done in public education in Texas, and if you were a candidate in the upcoming GOP primaries, boxing up some of the books available in schools might be the first thing on your lips. Maybe you'd also fret over subversive ideas in social studies and history texts.

But dictating what students are allowed to read depends on their ability to read in the first place. Falling test scores and learning lost to the pandemic might not light up the crowds at political rallies, but it's a bigger issue than books that offend legislators' tender sensibilities.

Election years are like that.

With any luck, you can push these debates out of mind until 2022 gets here in a couple of weeks. After that, it'll be almost impossible to ignore. It's already difficult to ignore: As of Monday, the people who'll be on the ballot have all filed their papers with the parties and the state. The regular Austin spots where pols go to raise money are bustling with check-writing lobbyists and other interested parties. Voting in the primaries starts in the third week of February. The wave of political advertising will start as soon as the holiday advertising stops.

Some voters cope by tuning everything out. Turnout in party primary elections in Texas is dismal. In 2020, a presidential election year when turnout is usually at its highest, 12.4% of registered voters showed up for the

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Republican primary and 12.9% voted in the Democratic primary. Most — 74.6% — didn't vote in those primaries. The numbers are even lower when you look at the whole voting age population of the state — the registered voters and the Texans who haven't registered. Less than 20% of the state's adults went to the polls two years ago.

Others cope by limiting their attention only to the candidates on their own side of the party line. That cuts the noise in half.

Some spend their attention carefully, sticking to issues that they care about and ignoring the noisy wedge issues that sometimes overwhelm political conversation and turn the public square — or the living room — into a kennel full of barking dogs.

Some candidates benefit from the barking, and from the fears stirred by whistles only their followers can hear. Besides, it's easier to get a crowd stirred up by something uncomfortable in a young adult novel than by descending scores on math tests.

Want a taste? In 2019, 48% of third graders and 56% of fifth graders met or exceeded the standard on STAAR tests in Texas public schools, according to the Texas Education Agency. In spring of 2021, 30% of third graders and 43% of fifth graders were up to standard on those tests.

Wars over the contents of books are as old as books. It would be sweet if people fought as hard over why students don't spend enough time in libraries in the first place. But content fights are better political issues, raising voter passion without risking a debate on the overall quality of education kids are getting in Texas.

Education is hard — for teachers, students, makers of policy and law, and politicians. It's easier, unless voters are unusually focused, to sway an election with a debate over books most people will never open than to sway it with a debate about STAAR reading assessments that have dropped in every single grade in Texas elementary and middle schools over the last two years.

What's written in books is only a problem for people who can read. But in Texas politics, the quality of education isn't what draws a crowd to the polls. If it was, politicians would be recommending books to read instead of pulling titles off the shelves.

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Business/Economy

Austin Chamber Of Commerce Granted $100k For Austin Employment Growth
KTBC

The Austin Chamber of Commerce has been awarded a $100,000 grant from Texas Mutual Insurance Company as part of a $2 million request for proposal that has already awarded 44 different organizations across the state.

The grant is being received through the Chamber of Commerce's 501©(3) designated organization, the Quality of Life Foundation. The foundation focuses on increasing opportunities of employment and career advancement in the Austin community.

"We're incredibly grateful to Texas Mutual for granting us the funds to progress the important work that the Chamber is doing for workforce development," Laura Huffman, president and chief executive officer of the Austin Chamber of Commerce, said.

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"This funding ensures our programs can focus on doing the work that is vital to this region: reducing unemployment, growing the region's talent pipeline, and seeking out more opportunities for career growth. Through these initiatives, the Austin region will continue its rapid expansion into new industries and remain a hub for job seekers and employers around the world."

The grant will help support a new platform created by the Quality of Life Foundation, the "512 Career Bridge". It will assist K-12 students, job-seeking adults, and the general public to explore in-demand jobs, attend career panels and events, and other career-related opportunities. The Foundation plans on working and engaging with local businesses, career professionals, and schools in Austin to create a diverse area of opportunity.

To view the full list of workforce development and safety training grant recipients, visit the Texas Mutual website.

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UTEP Awarded $500K Grant To Grow Aerospace And Advanced Manufacturing Sectors In Region
By Chris Babcock
KTSM

As part of the initial phase of the Build Back Better Regional Challenge, the University of Texas at El Paso, along with several regional and national partners, will look to build on UTEP's success and increasing prominence in the aerospace and advanced manufacturing fields to bring more jobs and spur growth in the economy of West Texas, via a $500,000 grant from the Economic Development Administration (EDA).

Officials say the project will be managed and executed by the newly formed West Texas Aerospace and Defense Manufacturing Coalition, which is led by UTEP and includes several national and regional partners such as the City of El Paso and the El Paso Chamber.

The group proposes to catalyze economic growth in aerospace and defense manufacturing by developing the El Paso Makes Advanced Manufacturing District and the West Texas Advanced Technology Corridor.

According to officials, the aim is to create 4,000 new engineering and technologist positions and 13,000 technical positions in aerospace and defense manufacturing in West Texas by 2030. The coalition also will work to bring 300 of the region's manufacturers into aerospace and defense supply chains in that same timeframe.

The West Texas region includes El Paso, Hudspeth, Culberson, Jeff Davis, Brewster and Presidio counties.

"Aerospace and defense manufacturing represents a transformational economic development opportunity for El Paso and West Texas…As a national leader in aerospace, defense, and additive manufacturing research and development, UTEP is grateful for this U.S. Economic Development Administration grant to help develop more high-paying jobs in the region while enhancing U.S. competitiveness. We have a great foundation to build upon and we look forward to working closely with partners to plan next steps."

As finalists in the challenge, UTEP and its collaborators will now have the opportunity to strengthen their proposal and compete for an additional award of up to $100 million.

UTEP's proposal, titled "Reclaiming Aerospace and Defense Manufacturing Dominance through Frontier Technologies," aims to help close America's gap in aerospace and defense manufacturing capabilities while

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providing the potential for economic growth and job opportunities for UTEP students and other residents across West Texas.

Sixty projects were named finalists out of 529 applicants that submitted entries to the Build Back Better Regional Challenge in October, according to the U.S. Department of Commerce.

Each of the projects targets a sector of the economy that is specific to the applicant's geographic region.

"We have built this strategy from the strength of significant aerospace, defense and advanced manufacturing capabilities and activities that, if better connected and resourced, could make West Texas a strategic national hub for aerospace and defense manufacturing," said Ahsan Choudhuri, Ph.D., associate vice president for the Aerospace Center (cSETR) at UTEP and principal investigator for the project.

Anchoring the region's capabilities and competitive advantages are the research preeminence and talent development pipelines at UTEP's Aerospace and Keck centers. Both research centers are national leaders in supplying a diverse, industry-ready, highly skilled workforce. They are also widely regarded as leading innovators in aerospace, defense and additive manufacturing technologies.

"Being selected as a finalist is a huge accomplishment and fantastic opportunity for our region…our community's success is a direct result of a focused strategy to leverage our community's assets, such as UTEP's students and team. We are also ideally located for success due to our proximity to Fort Bliss and nearby investment in the aerospace industry. We look forward to our continued work with UTEP, the Chamber, and our other coalition partners to grow the regional aerospace and defense manufacturing industry cluster and, ultimately, advance our community's quality of life by creating jobs and investment."

The coalition has identified several core strategic manufacturing strengths in our region that will contribute to strengthening the nation's defense and industrial sectors.

These include additive manufacturing, robotics and automation, precision and high temperature machining, advanced tool and die making, and electronics. Areas of potential growth opportunity regionally are in electronics manufacturing and cybersecurity for manufacturing.

"There is vast untapped opportunity in the region for job creation in aerospace and defense manufacturing, including three military bases – Fort Bliss, White Sands Missile Range and Holloman Air Force Base," said Ryan Wicker, Ph.D., executive director of the W.M. Keck Center for 3D Innovation at UTEP, and co-principal investigator of the project. "West Texas is part of the fourth-largest manufacturing hub in the world, which also includes Juárez, Mexico, and Doña Ana County, New Mexico."

In the past decade, these research hubs have trained and placed more than 600 engineering graduates in the aerospace, defense and advanced manufacturing industries. In the 2019-20 academic year alone, Lockheed Martin hired 101 UTEP engineering students across its business units from these research centers.

Additionally, the Keck and Aerospace centers have performed agency and industry sponsored research and development work valued at more than $90 million since their inception.

"I am grateful to UTEP for their partnership in championing economic development investments," said U.S. Rep. Veronica Escobar. "I look forward to seeing how this innovative project will help get our aerospace and defense manufacturing industry to the next level."

The finalists in the Build Back Better Regional Challenge will now compete for Phase 2 funding. The deadline to submit applications for those awards is March 15, 2022

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New Amazon Facility Set To Bring Economic Boom To The Coastal Bend
By Michael Gibson
KIII

The Nueces County Development Commission came together virtually to discuss the topic of Amazon's "Last Mile Facility" being built by the airport.

Work crews are busy converting the old Baker Hughes Oilfield service operations center into Amazon's "Last Mile Facility." The Nueces County Development Commission met with Amazon company officials in a virtual meeting to give county leaders the newest and latest information about the 140-thousand square foot package delivery facility.

Nueces County Judge Barbara Canales was eager to discuss the benefits that the facility will have for the local economy.

"It's going to be the largest last mile network of its kind," Canales said, "So, I think that's really great. They're going to start with 50 employees and then ramp up to 150, and the starting pay is $15.50 an hour."

Canales told 3News that Amazon also told the County that it's looking at getting packages to Corpus Christi customers faster than it's 2-day prime promise.

"We might have the opportunity for same-day delivery. That's kind of a big deal for a lot of us," Canales said.

While there aren't actually any Amazon employees currently on-site at the facility, sometime early next year the facility is supposed to be up and running.

Canales saying that once Amazon opens its facility, the county will then try and get the company to build a larger distribution center in the area like it has already done in San Antonio.

"We are going to let them move in and be happy about their presence," Canales said, "But get right to work in the concept of 'hey, we think we are ripe and primed for the distribution center.'"

Canales believes that the Corpus Christi area would be the perfect spot due to being the bridge between San Antonio and the border, especially after the I-69 corridor is completed. Canales adds that it also makes good sense for Amazon to want to be a bigger part of a growing and thriving area.

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Waco Job Market 'Booming,' City Leaders Believe Central Freight Workers Won't Be Jobless Long
By Alicia Naspretto
KXXV

There's now less than a week left before Central Freight Lines ends its 96-year-run in Waco and more than 2000 employees nationwide are still struggling to process the unexpected closure.

Many showed up for work Tuesday morning and found the gate closed and security on the property.

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Hundreds of local workers employed at the Waco headquarters will soon be jobless, but the Greater Waco Chamber of Commerce told 25 News it doesn't expect them to be without a job for long.

"The silver lining to all of this is our economy here in Waco is just booming right now and there's lot of opportunities for those individuals to be replaced into new employment and to be reskilled if they choose to do so," Senior VP for Economic Development Kris Collins said.

The City of Waco and the mayor refused interviews with 25 News but released the following statement also boasting about the local economy.

"The job market in Waco is strong, and we feel confident with the number of new businesses and industries coming in that people will be able to find jobs. There are many industries who are interested in hiring from our Waco workforce."

Kris Collins said they knew Central Freight had struggled for a while financially, but the closure was still a shock to everyone.

"I think anytime a long-tenured employer decides to close their doors, especially abruptly like this, it tends to have a rippling effect emotionally through the community," she said. "Certainly, it's going to be impactful to those individuals and how it's going to impact their households, but hopefully that's a short-term issue they're going to face."

Collins also said the Chamber has programs to help connect those workers with open positions in the area.

25 News also called Central Freight Lines for two days, but they have not been available for comment.

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Immigration/Border Security

"I Thought He Was Going To Kill Me": Migrants Say Return Of Trump-Era Border Policy Will Put Asylum Seekers In Danger
By Uriel J. Garcia
Texas Tribune

Lisbet was facing jail time in her native Cuba for questioning the integrity of an election, she said. So she and her husband sold their belongings and bought a round-trip plane ticket to Nicaragua, lying to Cuban immigration officials that they were taking a vacation.

They left their two daughters with Lisbet's mother and told their older daughter they would reunite later in another country.

After traveling through Central America and Mexico, Lisbet and her husband reached the El Paso-Ciudad Juárez international bridge in May 2019 and asked for asylum in the United States — joining thousands of other migrants who have made the same journey.

Immigration authorities sent her husband to an immigration detention center in Houston and sent Lisbet back to Juárez under a policy called the Migrant Protection Protocols, or MPP. Informally known as "remain in Mexico," the policy was aimed at deterring migrants from crossing the U.S.-Mexico border.

In Juárez, she said a Mexican police officer began harassing her, then stalking her — and later raped her so violently she had to undergo reconstructive surgery.

“I thought he was going to kill me,” she said. “All I kept thinking about was if I was going to be able to see my daughters again.”

Following a federal judge’s order, the Biden administration last week began to restart MPP, which during the Trump administration forced Lisbet and thousands of other asylum-seeking migrants to stay in Mexican border cities as their cases made their way through U.S. immigration courts.

Officials said the program would first be revived in an undisclosed border city, then migrants would be enrolled into MPP at El Paso, Laredo, Brownsville and San Diego.

Some human rights advocates, and migrants who have been placed in MPP, say reviving the program puts more migrants in danger of being targeted by criminals in Mexican border cities. Human Rights First, a New York-based organization, recorded 1,544 cases of killings, rapes and kidnappings of migrants who were forced to remain in Mexico between MPP’s launch in January 2019 and January 2021, when the Biden administration suspended the policy.

Texas Attorney General Ken Paxton joined the attorney general of Missouri to sue the Biden administration in April, claiming that suspending the policy violated administrative law. District Judge Matthew J. Kacsmaryk, a Trump appointee in Amarillo, agreed, but the administration appealed all the way up to the U.S. Supreme Court, which denied the administration’s request to temporarily pause Kacsmaryk’s ruling.

The case went back to the 5th U.S. Circuit Court of Appeals, which on Monday ruled to uphold Kacsmaryk’s ruling.

In the lawsuit, Paxton also argued that without MPP, human trafficking would increase and force the states to expend resources on migrants ─ such as providing driver’s licenses, educating migrant children and providing hospital care.

“I will continue to fight to restore safety and order along our southern border, making sure that this essential program is implemented in full compliance with the court’s order,” Paxton said in a statement.

Under the Biden administration’s version of MPP, migrants from all of the Western hemisphere can be sent into Mexico ─ previously it included migrants only from Spanish-speaking countries and Brazil. The migrants can receive a COVID-19 vaccine before immigration officials return them to Mexico.

Tami Goodlette, director of litigation for the Texas-based Refugee and Immigrant Center for Education and Legal Services, said the Biden administration “must stop fueling cruel and heartless cycles of displacement.”

“Instead of providing care and safety for migrants, the U.S. is actively choosing to create an environment of rampant danger and abuse where vulnerable people are at an increased risk of violence and exploitation,” Goodlette said.

Lisbet, 37, was one of the 71,000 people sent back to Mexico during the Trump administration, and the asylum cases of more than 25,000 migrants placed in MPP remain pending, according to the Transactional Records Access Clearinghouse at Syracuse University.

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Lisbet, who asked to be identified only by her first name because her daughters are still in Cuba and she fears the government may retaliate against them, called the policy "an injustice because it's denying a human being the possibility of seeking safety."

Gabriel, a 45-year-old who was forced to stay in Juárez for a year and a half, fled Venezuela in April 2019 and requested asylum at Santa Teresa, New Mexico. Immigration officials sent him to Juárez, where he said he lived for 16 months before he was reunited with his sister in South Carolina.

Unlike Lisbet, he was able to get a work permit in Mexico and find a stable place to live. He said he felt lucky that he wasn't a victim of violence or the elements: Two boys in a migrant camp died of hypothermia while he was in Juárez, he said, and a Cuban man was shot to death in a city plaza.

"The MPP the way I lived it, was not 100% humane," said Gabriel, who asked to be identified with a pseudonym because he fears the Venezuelan government might retaliate against his two children. "A lot of the people who went through it with me felt discouraged and duped because the program didn't give them any hope."

"They couldn't do anything for me"

After Lisbet cast her ballot in Cuba's constitutional referendum in February 2019, she said she stayed near the voting booths awaiting the results instead of going back home as she'd been told. When she refused to leave, voting officials accused her of interfering in the process and called the police.

A plainclothes officer took her to a police station, where Lisbet, who was three months pregnant, insisted the vote was a sham. She said the angry officer struck her face, causing her to fall. The officer put Lisbet in a cell as she bled through her pants. She said she was denied medical care until three days later, when police took her to a hospital and a doctor told her she had lost the baby.

"I was devastated and filled with anger," Lisbet said. "My husband was scared and he said, 'If we don't leave, we're not going to be alive much longer.'"

When Lisbet and her husband reached the international bridge at the Texas-Mexico border, she said immigration officials placed them in a makeshift camp in El Paso, separating them by gender and taking away their belongings.

She was in the camp for 40 days before officials gave her a court date and then dropped Lisbet and six other asylum-seeking women in the middle of Juárez. The seven of them put their money together to rent a hotel for the night.

"We were all confused and disoriented because we were told there would be shelter and none of us knew each other," she said. "I was desperate because my husband was the one with all the money."

That night, Lisbet called relatives in Cuba. She said her brother put her in touch with a friend in the U.S., who wired Lisbet money to Juárez to buy food, clothing and lodging. Relatives also told her that her husband was in a detention center — he'd called them earlier.

Her first court date was in El Paso roughly two months later, in August 2019. After she made her case for asylum, she was sent back to Juárez, where she rented a house with other asylum-seekers. She couldn't legally work, so she said she cleaned homes and helped vendors set up food stands in exchange for food.

Between her second and third court dates, Lisbet said a Juárez police officer began to harass her, asking for sexual favors and threatening her with deportation if she refused. She said she started moving from house to house to avoid the officer.

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On Oct. 17, 2019, he seized her passport after she refused his sexual advances again, she said. The following day, she said she filed a complaint with the police. The angry officer then showed up at the house where she was staying, Lisbet said, and threatened to have her killed for reporting him. She said she went to the international bridge and told the immigration officials about the officer's harassment and threats, begging to enter the U.S.

"I kept crying to them, but without any compassion, they just told me no, they couldn't do anything for me," Lisbet said.

On the night of Dec. 7, 2019, two days before her court hearing in El Paso, she was walking in an empty street alone when the officer found her and raped her.

"I was in shock," she said. "I couldn't believe the physical pain I was in. I also started to feel shame because I would have to explain to people what happened to me."

A couple found her in the street and called an ambulance, which took her to a hospital where a doctor performed reconstructive surgery to repair the damage from the attack.

She didn't want to tell her husband, who by then had been released into the U.S. and was living in Austin with a cousin. (Lisbet said they never figured out why her husband wasn't placed in MPP.)

But her husband kept asking why she had ignored his calls and text messages for three days. She finally told him what had happened.

"He started to cry a lot, he started to worry even more," she said.

Lisbet said she still hasn't told her mother and daughters about the rape. She said she doesn't have the courage.

Another chance

Recuperating in a hospital bed, Lisbet missed her court hearing — she sent her hospital records with another asylum-seeker, hoping the U.S. immigration officials wouldn't throw out her case. The woman came back with bad news: Lisbet's asylum claim was closed because she hadn't made the hearing, and immigration officials had issued a deportation order for her if she ever entered the U.S. illegally.

"I felt defeated," she said. "I thought to myself, 'I guess I'm going to have to stay here and just try to make a life for myself.'"

Lisbet said she stayed with a friend for eight months before the police officer who attacked her began to threaten the woman. Lisbet didn't want her friend to get hurt, so she went to the international bridge in July 2020 and asked to enter the country.

This time, they sent Lisbet to a detention center in El Paso, where she told an immigration officer about losing her baby in Cuba and the Juárez officer who had raped her.

"I remember him telling me, 'You can cry and throw a fit, but you're being deported back to Cuba regardless,'" Lisbet says.

A fellow detainee told Lisbet about Diocesan Migrant & Refugees Services. Marysol Castro, a staff attorney for the organization, took Lisbet's asylum claim to the Department of Justice's Board of Immigration Appeals and asked to have her case reopened.

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In December 2020, Lisbet was released from the detention center and went to Louisville, Kentucky, to reunite with her husband, who had moved there to live with a relative.

Three months later, Castro received a letter from the immigration board that it agreed to reopen Lisbet's asylum case.

Lisbet says it's been a tumultuous two and a half years. She and her husband don't work because they are not legally allowed to, she said. Their relative in Kentucky is supporting them.

She said she doesn't know when her case will be resolved — or when she's going to see her daughters, who are now 17 and 7.

"I feel a lot of pain and sadness of course because it's been hard," Lisbet said. "But I keep thinking if I stayed in Cuba, I could have been imprisoned and kept away from my daughters.

So what gives me hope is that now that I'm physically OK in the U.S. that I have a chance of seeing my daughters again."

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Opinion/Editorial

Democrats Should Stick To Their Guns When It Comes To Firearm Safety — Even In Texas
By Erica Grieder
Houston Chronicle

Once upon a time, Democrats running for statewide office in Texas were reluctant to get crossways with Second Amendment enthusiasts in this historically gun-friendly state.

There's also been a widespread assumption among political observers that former U.S. Rep. Beto O'Rourke damaged his statewide prospects in Texas — perhaps irretrievably — when he took issue with assault weapons during his brief bid for the 2020 Democratic presidential nomination.

"Hell yes, we're going to take your AR-15, your AK-47," O'Rourke said in a September 2019 debate, hosted by Texas Southern University.

Whether you agree or disagree with that proposal, there's something quite refreshing about the El Pasoan's refusal to backpedal or flip-flop on gun safety since entering the 2022 gubernatorial race.

O'Rourke has said that he still supports a mandatory buyback program for assault weapons — a position he came to after an August 2019 massacre at an El Paso Walmart that killed 23, followed just weeks later by another mass shooting, in Midland-Odessa, that left eight dead including the shooter. Both were carried out by gunmen wielding semi-automatic rifles.

And on Monday, at a rally in Amarillo, O'Rourke went after Gov. Greg Abbott directly over the issue of permitless carry. Under a new law signed by the governor earlier this year, Texans no longer need a license — or a background check or any sort of training — to carry a handgun in public.

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“Whatever he might say, this governor really does not trust law enforcement,” the Democrat told a crowd of several hundred people.

The Texas sheriffs and police chiefs who opposed the permitless carry bill had, he noted, testified that over the past five years they denied some 37,000 applications for licenses to carry a handgun, after deeming the applicants too great a threat to their communities. That’s to say nothing of the people who didn’t bother to apply, because they knew they couldn’t pass the background check, he added.

“Well, now,” O’Rourke continued, “...violent criminals — at a time of rising violent crime — are in no way checked through that license-to-carry program.”

If elected, he said, he’ll seek to repeal the permitless carry law — a lofty goal, given that Republicans are likely to retain control of the Texas Legislature. But it’s also a clear-sighted statement of purpose.

Republicans, needless to say, have taken notice — and even more strikingly, they appear to be playing defense.

“Robert Francis O’Rourke wants to disarm Texans like this woman,” Abbott tweeted Monday evening, adding a link to a Fox News story about a Harris County woman who shot and killed a man during the course of an alleged attempted robbery.

“Criminals don’t care what the law is; they will carry guns anyway,” the Republican governor added.

Criminals don’t care what the law is. Indeed. That’s a profound insight, and one that should definitely serve as the basis for sound policymaking.

One wonders why we have any laws at all, much less a state penal code that includes thousands of the darn things.

One also wonders whether Abbott — a former state attorney general and Texas Supreme Court justice — is under the impression that his constituents are goldfish, and therefore unable to remember his own previous pronouncements on the subject of crime prevention.

Asked about his support of a new state law banning abortions after six weeks with no exceptions for victims of rape and incest, Abbott delivered this platitude: “Rape is a crime, and Texas will work tirelessly to make sure we eliminate all rapists from the streets of Texas by aggressively going out and arresting them and prosecuting them and getting them off the streets. So goal No. 1 in the state of Texas is to eliminate rape.”

Basically, Abbott is for law and order and the rights of crime victims except when he isn’t.

The conversation O’Rourke is insisting on, and compelling Abbott to engage with, is one that many Texans have long been hoping for.

This is, as noted, a generally gun-friendly state. But in recent years, Republicans have passed a number of far-right priorities, including permitless carry, that are opposed by a majority of Texans, according to public polls.

Meanwhile, almost all gun-safety proposals filed in recent legislative sessions have fizzled ignominiously, even as gun violence continues to end lives and traumatize communities.

On Sunday, for example, a gunman opened fire on a crowd of mourners who had gathered in Baytown for a vigil. One young mother of a special needs child was killed and 13 others were injured. The vigil was in

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memory of another recent murder victim. While there's not necessarily a direct line between state laws and such terrors, it would be absurd to assume they have no connection whatsoever.

Or consider the tragedy last month in Lubbock, in which Chad Read, a 54-year-old father of three, was shot to death by his ex-wife's boyfriend, Kyle Carruth, after arriving at her house to pick up his son for a court-ordered visit. Carruth has not been charged in conjunction with the killing, which his defense lawyer has called "a justifiable homicide."

The attorney general's office is investigating. But in the meantime, video of the episode, released by Read's widow, depicts a bleak reality. An altercation that could have ended in angry words instead ended in death, because one man had ready access to a deadly weapon and no qualms about using it, even though he had no need to do so.

We may be used to this grim status quo, but it's more radical than anything O'Rourke is proposing. Many forget that President Bill Clinton signed an assault weapons ban into law in 1994, though it lapsed a decade later. And while polls show O'Rourke trailing Abbott, the crowds turning out for the former congressman in places like Amarillo and Lubbock explain why the governor seems a bit uneasy.

"We trust law enforcement; we want to see greater public safety; and we want to make sure that we protect the Second Amendment as well as protecting the lives of the people in our lives," O'Rourke said, at the Amarillo event. "We can do that; we are Texans."

It's bracing to hear such candor—and confidence—from a statewide candidate.

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Greg Abbott News

Gov. Abbott Asks State Agencies To 'Carefully Assess Implications' From Fed Infrastructure Act Funds
By Monica Madden
KRQE

Gov. Greg Abbott urged state agencies to think twice before accepting funds from the federal Infrastructure Investment and Jobs Act, in a letter sent out Tuesday morning.

As the federal government begins allocating funding to state and local governments, Abbott asked agency leaders to "carefully assess" the implications of federal funding agreements. Texas is set to receive about $35 billion from the infrastructure deal, according to a White House analysis.

"Should the acceptance of any federal funds hinder or needlessly constrain the state, commit the state to ongoing costs for which there is not an appropriation available, or require an agency to implement a federal policy contrary to the law or policy of this state, the agreement proposed by the federal agency should not be signed," Abbott wrote. Vance Ginn, the chief economist for the Texas Public Policy Foundation, applauded the governor's cautious approach.

"I really suggested that we look at this closely. We reject funds that are coming down if we really don't need them," he said. "If that is going to set us up for future spending in things that that state does not need, then we shouldn't have it down in that direction."

Ginn said he hopes most of the funding is earmarked as one-time expenditures. The White House provided estimates about how much each Texas sector should receive, but state agencies are still figuring out the details of how and when they can spend it.

"Whenever the state receives some sort of money from the federal government with taxpayer dollars going through the federal level, there usually will be some sort of strings attached," Ginn said. "Because we don't want to leave is what we call fiscal cliffs — where you put additional money into a certain area, and that money dries up and now you don't have the money available in the future."

U.S. Rep. Henry Cuellar, D-Laredo, said he thinks the spending outlines are "pretty straightforward" for state agencies to follow.

"It was a bipartisan bill. So, if there were any concerns, I think that our Republican friends would have brought that up or would not agree to that," Cuellar said. "…My prediction is that most the grand majority of these dollars will be accepted by the state of Texas."

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Some of the Biden Administrations allocation estimates for Texas include the following:

- $26.9 billion for highway programs
- $3.3 billion for public transportation expansion
- $2.9 billion for clean water improvement
- $1.2 billion for airport expansion
- $537 million for bridge repairs
- $408 million for electric vehicle charging stations
- $100 million for broadband expansion
- $53 million for wildfire protection
- $42 million for cybersecurity protection

Cuellar said Abbott's letter to state agencies was on par with his typical "hesitation when it comes to federal dollars," but emphasized the need for these investments in the state now.

"Those are things that are very basic that the state of Texas has taken advantage of and I think we should take advantage of that as soon as possible," he said. "Texas is growing our federal dollars, our state dollars — we need to do more to make sure that we get our roads paved, and create new highways in the state of Texas so our economy keeps growing."

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Beto O'Rourke Lays Out His Priorities For Texas At Amarillo Rally
By Michael Cuviello
Amarillo Globe News

Beto O'Rourke returned to Amarillo for his gubernatorial campaign rally greeted by an enthusiastic crowd Monday at Sam Houston Park.

The former U.S. Congressman from El Paso who is seeking the Democratic nomination for Texas governor in 2022 visited Amarillo during several campaign stops around the region this week.

"When we decide that we are going to come together regardless of the differences that would otherwise divide us and decide that we are going to unify on the common ground before us, I believe there is no stopping what we can do," O'Rourke said.

He spoke about his experience this week with educational leaders and students from the Amarillo area and the value of education. O' Rourke said he was inspired by the personal story of student Letty Ramirez and her sacrifices to better herself, all while being a parent.

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“I cannot think of anything more important than ensuring that we have a job and one that pays and provides purpose in our life,” O’Rourke said to the crowd. "We have to put our money where our mouth is.”

When speaking of low salaries and the loss of teachers in education in the state, O'Rourke said we need to take better care of the people who educate our children.

On healthcare, O’Rourke said Gov. Greg Abbott and current leaders are failing to expand Medicaid, to the detriment of the citizens of Texas who have a great need for such measures. He said people should not be going broke because of a medical issue arising.

“I will expand Medicaid and bring those dollars here to get the care that we need,” O’Rourke said.

O'Rourke got some of his loudest applause when he told the crowd that, if governor, he would work to legalize marijuana, reducing needless arrests for a legal substance in many other states. He talked about how veterans who could use the drug are instead given much more dangerous opiates.

O’Rourke said common-ground issues like this go across political boundaries.

Taking shots at the current governor over his hot button stances on such issues as voting restrictions, the new current permitless carry law and denying the right to abortion.

“Thanks to this permitless carry program, there is no way to know if those carrying are criminals or not; it makes us all less safe,” O’Rourke said. “As governor, I will repeal that program.”

He said that the thousands of people that have been rejected for licensed carry now go unchecked without any type of background check.

During his speech, the right to women’s healthcare such as abortion was another of O’ Rourke’s priorities. He derided the current measures by the current governor to restrict access to women’s healthcare.

Jennifer Gregg, who attended the rally, said she was very excited to see the candidate come to the city. She said that one of her top priorities for a candidate was women’s health care.

“I really think his ideas are badly needed, especially in my field of healthcare,” Gregg said. “I like his common sense approach on guns.”

Gubernatorial candidate Beto O' Rourke addresses supporters at Sam Houston Park in Amarillo Monday.
Carole McDaniel said that she really respects that O’Rourke has come to the area multiple times and thinks his leadership is what the state needs.

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“This is his eighth time here," McDaniel said. “His words about education and paying teachers are essential to me. Also, let's bring Medicaid to Texas that we choose not to expand it makes no sense for our needs.”

She also said that his views on women’s healthcare and access are badly needed.

Asked earlier in the day about his stance on the Second Amendment and the misinformation about his views, O'Rourke clarified his stance.

“We’re Texans. We will defend the Second Amendment and we will also ensure that we have the kind of responsible gun ownership that protects the lives of those around us. We’re a little more than two years removed from a mass shooting in Midland-Odessa that killed eight. From another the month before that killed 23 in El Paso, we have four of the deadliest mass shootings in U.S. history, just in Texas and just in the last five years.”

Attendees of the Beto' O Rourke rally at Sam Houston Park hold signs of support Monday evening.
Emphasizing that while he believed in the right to bear arms, he said there should be checks and balances.

“I think some common-sense measures, like universal background checks, like extreme risk protection orders, and just making sure that if someone wants to carry a firearm in public that they go through training, and a background check like we used to have," he said. "But instead of doing that, our current governor has signed into law a permit-less carry bill that allows anyone, including violent criminals, to carry a loaded firearm in public without a background check. And it's why law enforcement police chiefs’ sheriffs alike were opposed to this measure because it makes us less safe at a time of the rising crime in Texas. So, let’s protect the Second Amendment and let’s do a better job of protecting the lives of those in our communities.”

When asked about the crowd response, O’Rourke said he delighted with the turnout and enthusiasm of the crowd.

“Focusing on jobs, great schools and Medicaid are not just ideas - these are good for Texas," O’ Rourke said.

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Administration News

Texas Secretary Of State Talks Election Audit, Voting Bill And More With KVUE's Ashley Goudeau
KVUE

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Texas Secretary of State John B. Scott recently sat down with KVUE's Ashley Goudeau to talk about his appointment to the position, his goals and experience so far in the role of the state's chief election officer.

Scott was an attorney in Fort Worth prior to his appointment by Gov. Greg Abbott in late October.

"Honored, in just a simple word," he said about his appointment to the position.

The Fort Worth attorney also briefly represented former President Donald Trump in a lawsuit challenging the 2020 general election results in Pennsylvania. Scott later withdrew from the case, according to The Texas Tribune.

"They had an interesting case, set of facts, went up there and the law changed a little bit because of the Third Court of Appeals ... on an elector's clause decision, and so a lot of the ideas that might have been relevant were no longer that," Scott said about his brief stint representing Trump. "So there was kind of a change of, I guess goals, and I no longer really needed to be involved in the case."

Gov. Greg Abbott appoints Fort Worth attorney as Texas Secretary of State
Scott also spoke about his role in leading the full audit of the 2020 general election in four of the state's counties: Collin, Dallas, Harris and Tarrant. The Texas Secretary of State's Office launched the audit before Scott stepped into the role. He told Goudeau that his office was "not trying to go back" and change election results, but was instead like election processes "sitting through a test" to see if the processes in place were still functioning.

"And again, people need to understand, we're not trying to go back. There is no way to go back and change any election results," Scott said in part.

Scott previously served as deputy attorney general for civil litigation for Abbott when he served as the state attorney general. Scott oversaw all civil litigation, including over 22,000 lawsuits involving Texas, according to the governor's office. He was then appointed the first chief operating officer of the Health and Human Services Commission.

After returning to private practice, Abbott appointed him as the chair of the board for the Department of Information resources, where he developed the strategic plan for technology and security at Texas executive branch agencies and boards.

To watch the full responses on the ongoing election audit, his brief time representing the former president and other topics discussed in the 24-minute interview, check out the YouTube video here.

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Texas Legislature

With 31 Lawmakers Moving On, Texas Legislature Has Room To Get Redder
By Cayla Harris
San Antonio Express News

More than two dozen members of the Texas Legislature are retiring or running for a different seat next year, creating a slew of vacancies that could push both chambers to become redder and more polarized by the time lawmakers reconvene in 2023.

Many of the outgoing members are center-right or establishment politicians with years of experience, opening up seats for younger and more ideologically extreme replacements. In many cases, their districts were redrawn to strengthen the GOP's hold on the Legislature, eliminating all but a few of the battleground contests that tend to attract more moderate candidates.

Those changes, paired with new political maps that leave little opening for Democrats to gain ground in November, have laid the groundwork for an even more conservative Legislature, even as Republicans toast the 2021 legislative session as the most conservative in the state's history.

"The tides are shifting again," said state Rep. Dan Huberty, a moderate Republican from north Houston who is not seeking re-election. "You have different political leaders, and the constituency has a view of what they want. You're going to see a shift. I would assume it's going to be more conservative."

The Capitol is also poised to lose some of its longest tenured legislators to retirement, draining "a generation of policy expertise" on areas such as health care, education, agriculture and the border, said Brandon Rottinghaus, a political science professor at the University of Houston. The average tenure of the departing members is 13 years.

Still, it's not unusual for a mass reshuffling after a redistricting cycle, the once-a-decade process of redrawing the state's political maps. In some cases, the new maps make re-election harder for incumbents, either by drawing them out of their districts or changing the political lean. In others, the changes could open up new opportunities for sitting representatives to run for higher office.

Twenty-five representatives in the 150-member Texas House don't plan to return next year, a total that was solidified Monday, the deadline for candidates to file for the March primaries. Two incumbent Democrats are also facing off against each other in the same district, and only one of them can come back.

In the Senate, the more reliably conservative chamber, just one member is seeking a higher office. Four members plan to retire, including the chamber's most moderate members on both sides of the aisle — Sen. Eddie Lucio, a Brownsville Democrat, and Republican Sens. Kel Seliger of Amarillo and Larry Taylor of Friendswood.

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In all, 31 members definitely won't return to the Capitol in 2023, and that list could grow if sitting members lose their primary or general election contests. Following the 2012 elections, after the last redistricting cycle, the final total was 49.

Redistricting fuels polarization

In both chambers, redistricting shored up GOP support across the state, making it likely that even more Republicans will head to Austin for the 2023 legislative session.

Republicans currently hold 18 seats in the 31-member Senate, and that could grow after next year's general election. Former president Donald Trump carried 16 state Senate districts in 2020, but the new map would increase that total to 19.

It's the same story in the House, where Republicans currently hold 85 seats. Trump secured 76 of those districts last year, but he would have won 85 of them under the new setup.

"This cycle will shape Texas politics as much as any other we've seen in the past decade," Rottinghaus said. "The effect will be profound on the legislative process. I think the balance of power will lead to Republicans having a lot more control, because they're able to develop and harness the authority of leadership."

The new vacancies have also created a field for more ideologically extreme members to run for office — a trend seen nationwide as both state and national politics become increasingly polarized, and as money floods to those candidates, said Jennifer Clark, a political science professor at the University of Houston.

"It seems that increasingly moderate members are being sidelined and not stepping up and running for these seats," she said. "And then this is self-reinforcing, of course, because then we see growing polarization and even more of a reluctance on the part of moderates to enter into these races."

Moderates depart the House

In 2011, Huberty was one of 37 mostly Republican freshmen in the Texas House — a mix of conservatives and moderates who rode the tea party wave into office, including three members who had served in the House previously, lost their seats and then gained them back that year.

By 2023, few of the moderate new members elected from that class will remain, with most of the remaining holdouts — including Huberty, John Frullo of Lubbock, Lyle Larson of San Antonio and Jim Murphy of Houston — declining to seek re-election next year.

Huberty rejected the idea that moderate Republicans are leaving Austin because they are fed up with the direction of the Legislature or are being pushed out by more conserative members.

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“It's just the nature of the business,” Huberty said. “The average tenure of a state rep is about five years. It’s like a running back in the NFL: it doesn't last very long. I don't see anything that's a cause-and-effect, like, 'Oh my god, everything's gone so far to the right, I just don't want to do it anymore.'”

The 2023 session would be far from the first time the Legislature’s makeup has shifted to the right. But when that has happened in recent years, the more conservative freshmen were largely constrained by House leadership, led by former speaker Joe Straus, a moderate Republican from San Antonio. The current speaker, state Rep. Dade Phelan of Beaumont, rarely stood in the way of conservative priorities during his first year wielding the gavel.

“The speaker is definitely not Joe Straus in terms of his ideology,” said Jon Taylor, a political science professor at the University of Texas at San Antonio. “He’s much more conservative ... He's not as conservative, obviously, as (Lt. Gov.) Dan Patrick, but nonetheless more conservative. So, I think you'll see a push by those more on the right side of the Republican Party in the Legislature next session.”

State Rep. Mayes Middleton, a Wallisville Republican who chairs the conservative House Freedom Caucus, praised the “awesome” slate of GOP candidates running for the Texas House this cycle.

“I've talked with a lot of them,” Middleton said. “They have the fire in the belly that it takes to go fight for our shared conservative values and make sure these policies get across the finish line.”

Middleton, one of the most conservative members of the Texas House, is now running for a vacant state Senate seat with Patrick’s endorsement.

The direction of the Legislature has also prompted some House Democrats to call it quits, though it’s unclear if they will be replaced by more progressive members.

One of the departing Democrats, state Rep. Ina Minjarez of San Antonio, said she decided to forego re-election and run for Bexar County judge in part because she was fed up with the Legislature’s hard-right turn — a trend she expects will continue next session.

“We're not working on the issues, on the policies that really make the quality of life better for people in this state,” Minjarez said. “To me, it's become nothing but a bunch of rhetoric and a bunch of political games.”

Senate drifting further right

In the Senate, Lucio’s seat could be the sole competitive race next year. The other open districts are solidly Republican, and those who are likely to replace the outgoing

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members are ideologically further right than their predecessors — or are, at least, closely allied with Patrick, the leader of the upper chamber.

Seliger was known for frequent fallouts with Patrick, defying him at times and blocking passage of priority bills. But state Rep. Phil King, the Weatherford Republican vying to replace him, has already earned Patrick's stamp of approval.

Taylor, one of the most moderate members of the Senate, is also poised to be replaced by a more conservative successor. Those running to replace him include Middleton and Robin Armstrong, a physician backed by Attorney General Ken Paxton, a tea party favorite. (Armstrong gained attention last year when he controversially administered hydroxychloroquine to COVID-19 patients at the Texas City nursing home where he works.)

It's difficult to say whether ideological shifts in the Senate may help pass some conservative legislation that had failed this year, like a ban on COVID vaccine mandates, Seliger said. Those who replace outgoing GOP members will also be Republicans who share many of the same values as their predecessors — and some could dissent behind closed doors, he said.

"The things that go all the way through are the things approved by the lieutenant governor," he said. "That will not change."

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State News

The Newest Texans Are Not Who You Think They Are
By Tom Foster
Texas Monthly

hat an attractive crowd!" cheered Fredrik Eklund, the Swedish-born celebrity real estate broker who stars on the hit Bravo reality show Million Dollar Listing. He stood on the patio of a newly built home in Tarrytown, the tony neighborhood that hugs the shores of Lake Austin, addressing the local brokers who were packed into the yard. It was the launch party for the Austin branch of Douglas Elliman, a brokerage famous in New York and California for selling luxury homes and high-rise condos.

Eklund, who wore a double-breasted navy linen jacket, snug-fitting white slacks, and sockless dress shoes, seemed a little surprised that the crowd had matched him ankle for stylish ankle, but he didn't linger on it. Speeches had to be made, toasts given, and then he'd board a plane for Miami first thing in the morning, after fewer than 24 hours in the Texas capital. For the moment, his job was simply to be seen, to lend some sizzle to the occasion. Not only was Elliman moving in on Texas real estate, it had brought its biggest gun, Eklund, one of the country's top real estate brokers, who also happens to be a bona fide TV star.

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Not that Austin—or this house—needed any help in the sizzle category. The three-story brick-and-shingle mansion had sold in two days for considerably more than its $16.25 million asking price, to an out-of-town buyer whose identity was confidential (but who was rumored to be to an entrepreneur from Los Angeles). During the party, celebrated interior designer Fern Santini glided from room to room in a silk Pucci caftan aswirl with soft pinks and yellows, showing off the many style innovations she'd brought to the home, which was sold fully furnished. Brass mesh paneling encircled a spiral staircase. Blue-and-gold cowhide carpeted the ceiling of the third-floor man cave. Outside on the meticulous lawn, a bearded bartender wore pointy boots with skinny black jeans and a flat-brim Stetson. This was rootsy old Austin taken to its most glamorous—or, depending on your perspective, its most absurd—conclusion.

Eklund has built his New York–based Elliman subsidiary, the Eklund Gomes Team, around what he calls the "golden triangle" of U.S. real estate: New York, Miami, and L.A. But as he and his partners got wind of Texas's booming population and economy in recent years, they started planning to expand here—to Houston, Austin, and Dallas, another kind of golden triangle. As he would tell me later, "I was in Beverly Hills yesterday, and Texas real estate was the only thing anyone wanted to talk to me about."

In the black-lacquered Tarrytown kitchen, I spoke to a visitor from California who suggested the reality was a little more complicated. "Nobody's actually moving here," he said, smiling conspiratorially. "Nobody's leaving L.A. They're looking for a tax shelter or something."

He was exaggerating, of course. For one thing, a string of high-profile corporate relocations from California had grabbed headlines (Charles Schwab to Denton County, Hewlett Packard Enterprise to Houston, Oracle to Austin), and the Elliman team had spent the day meeting with Texas economic development officials in the governor's office. Eklund's publicist, Alexander Ali, noted that Elliman was especially excited about the arrival of Tesla, which is in the process of building what it's calling its Gigafactory near the Austin airport—a structure the size of 165 football fields that would theoretically create 15,000 jobs. Ali suggested that a few high-profile celebrities who'd moved from the West Coast were inspiring others. "Elon Musk and Joe Rogan have such cult followings," he said. "And when celebrities move, people pay attention."

And then he leaned in close again and confided that he wasn't sure this whole scene was entirely welcome. "Does the community not love it?" he asked.

In fact, breakneck growth in recent years has stirred up all sorts of conflicts across the city, much as it has elsewhere in the state, which is perhaps why Ali made certain to explain that this evening's party was also a benefit for the Health Alliance for Austin Musicians.

Later that night, at an after-party downtown in a dimly lit cocktail bar called the Roosevelt Room, the waitstaff tried in vain to enforce the establishment's mask mandate

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while huddles of partygoers talked about the challenges and rewards of surfing this real estate wave. One Dallas agent told me there are simply too many faux chateaus in Big D and not enough contemporary homes to suit the tastes of newcomers. In Austin, developers can't build high-rise condos fast enough. In Houston, buyers from abroad—the United Arab Emirates, China, parts of post-Brexit Europe—are scooping up many of the high-end properties.

At the after-party, I also met U.S. congressman John Carter, a former Williamson County district court judge who's been a law-and-order, free-market Republican representing Round Rock and the other far-northern suburbs of Austin since 2003. Carter was talking with a circle of real estate developers, including an executive from the Related Companies—one of the largest commercial developers in the country, responsible for Manhattan's Hudson Yards and similar megaprojects in London, Abu Dhabi, and beyond. Though he hadn't made it out to Tarrytown for the open house ("Sheesh," he said when I mentioned the sale price), Carter had met the Elliman team as part of the firm's goodwill tour. "I think they're creating enthusiasm," he said. "They realize they don't want to change what makes us a great place to be, so let's hope they don't. We still want to be Central Texas." And how might one do that? "Be cautious," he said.

Of course, nothing about the evening—or the pace of the state's growth—seemed especially cautious.

The Big Picture

The Texas population grew by about four million people in the past decade—far more than any other state in raw numbers, and enough as a percentage to make it the third-fastest-growing state in the nation over that period, behind Utah and Idaho. Roughly 3,800 more people move here every week than move out of state. Tick down any list of the fastest-growing cities in the country, and Texas shows up again and again. Fort Worth, Austin, and San Antonio all landed on the list of cities with a population gain of at least 100,000 over the past decade, according to the U.S. Census Bureau, which released its latest data in August. Frisco easily topped the list of large cities, followed by a lot of other suburbs and exurbs, such as New Braunfels, McKinney, and Conroe.

You get the idea: the Texas population is booming.

That growth, of course, has come with plenty of hand-wringing about everything from an overheated housing market to fears of a hostile takeover by liberal coastal elites. News headlines have stoked those worries in the past two years. And then there was Greg Abbott's 2018 campaign slogan: "Don't California My Texas." But perhaps unsurprisingly, partisans may have it wrong.

For one thing, despite all the public focus on Californication, there are intriguing signs that many of the newest arrivals share key characteristics with lifelong Texans. Many are coming for abundant jobs, lower taxes, fewer regulations, and a more reasonable cost of living (which may be hard to believe for Texan buyers and renters fretting over the housing market but is a fact).

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The Great Migration, by the Numbers
It's also worth noting that people moving from elsewhere make up only about half of Texas's population growth; the other half comes from births outpacing deaths. Of the people moving here, about 40 percent come from other countries and 60 percent from other states—though that balance has tipped back and forth a few times in recent years. Californians are hardly the full story.

Perhaps the most surprising Texas statistic that landed with the latest census: those of Hispanic or Latino origin, Asians, and members of other racial and ethnic minority groups made up about 95 percent of the population growth from 2010 to 2020. (95 percent!) That's 3.8 million new non-Anglos in Texas, compared with about 200,000 non-Hispanic whites. Rogelio Saenz, a demographer at the University of Texas at San Antonio and a native of the Rio Grande Valley, has a memorable way of driving that statistic home. "Essentially, that means we added the equivalent of the cities of Houston and San Antonio in [non-Anglos]," he told me. "And we added the city of Brownsville in [non-Hispanic whites]."

The census revealed just how close Hispanic Texans are to becoming a plurality. When it was published, they constituted 39.3 percent of the population, whereas non-Hispanic whites constituted 39.8 percent. That threshold will be crossed any day now, and by 2050, less than 30 percent of Texans will be non-Hispanic white.

Hispanic Texans, however, are not the fastest-growing ethnic group in the state. That honor goes to Asian Texans. While the proportion of Asians in the state remains just 5.4 percent, the group has gained nearly three times as many new members as Anglo Texans have over the past decade. Whereas Texas gained 187,252 non-Hispanic whites in that period, it gained 613,092 Asians. In some areas of Denton and Collin counties, north of Dallas, or Fort Bend County, just southwest of Houston, Asian immigrants are the driving force of growth.

Whatever their ethnicities, Californians are coming to Texas in much higher numbers than are migrants from any other state. In 2019 about 42 percent of net domestic immigrants came from California. For all the hyperventilating about Californians ruining certain Texas cities, however, the fastest-growing parts of the state owe much of their growth to Texans shuffling around from city to city. In fact, a primary reason Texas is growing so fast is that we tend to stick around as compared to natives of other states, meaning there's less out-migration to offset the in-migration. About 82 percent of people born in Texas still live here, making it the so-called stickiest state in the country.

Bill Fulton, director of the Kinder Institute for Urban Research at Rice University, in Houston, points out that "basically all the population growth is in the Texas Triangle," the relatively tight space defined by the Dallas–Fort Worth, Houston, and Austin–San Antonio regions. He recently wrote a book with former San Antonio mayor Henry Cisneros, "and we found that the Texas Triangle favorably compared to virtually all other

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mega-regions in the U.S., including Southern California and the Northeast Corridor. It is a true economic powerhouse."

That's just one of the ways Texas's population growth is changing the landscape. In the booming cities, Fulton points out, the influx of a young professional class has led to a flowering of high-rise and mid-rise apartment buildings, as well as multiunit home lots. At the same time, suburbs have become more diverse than they were in the days of white flight from urban neighborhoods, in the sixties, in part because today gentrifying city neighborhoods are edging out non-white residents. Rural and small-town Texas, meanwhile, is shrinking. In fact, 142 of the state's 254 counties are declining in population, some of them precipitously. Schleicher County, between San Angelo and Sonora, lost 29 percent of its population in ten years, the steepest drop in the state.

The diversification of the suburbs could fundamentally alter the political map by changing reliable Republican standbys to perennial toss-ups. Dying small towns carry less electoral weight. Gerrymandering of districts, now pursued as avidly by Republicans as it once was by Democrats, will continue to redraw electoral maps to maintain the current political order. But at some point, likely soon, the old assumptions will simply no longer hold true, and the keys to winning Texas will change.

The continued growth of the Texas economy, meanwhile, will increasingly rely on newcomers from other states and countries—to both provide jobs and fill them. In turn, pressure will mount for Texas to better educate and train its homegrown workforce to remain competitive, especially as our population ages. Dramatic shifts in the economic and cultural landscape of the U.S.—as well as in Texas itself—have landed the Lone Star State an opportunity to lead the country into the future. Figuring out how to respond requires understanding the forces that brought us here.

The Growth Propellant

Half an hour's drive southwest of Killeen, within sight of U.S. 183, a patch of prairie has been blasted into a barren crater by eruptions of highly refined kerosene and liquid oxygen that combust and emerge as a torrent of fire from a tangle of tubes and wires—the guts of a rocket engine test model—with such violence that the technicians in charge must watch from a control center eight hundred yards away.

Here, at the edge of the unincorporated Central Texas community of Briggs, which has a population of about 430, is where Tom Markusic met me on a blazing hot afternoon. He's the CEO and founder of Firefly Aerospace, a company that builds rockets to take satellites to space and ultimately, he hopes, to ferry supplies to the moon and other celestial bodies. The company recently won a $93.3 million contract with NASA to construct a lunar lander, and it has built a simulated moonscape here in Briggs, alongside the test-firing field and a small rocket factory.

Markusic, who worked for NASA, SpaceX, Blue Origin, and Virgin Galactic before launching Firefly in 2014, chose Texas for his company's headquarters in part because he knew nobody would get in his way. It's the same reason Jeff Bezos tests and launches his

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rockets near Van Horn, and Elon Musk launches his in Boca Chica. “There’s a different view of property ownership in Texas,” Markusic told me as we settled down in a dark conference room inside one of the factory buildings. “There’s a clear cultural expectation that your land is [yours] to do with as you choose—within the confines of the prevailing zoning and such, of course. So, the neat thing is, so long as you are a good neighbor, people leave you alone and let you do what you need to do.”

“Time is our most precious commodity,” Tom Markusic explained, “and we can move a lot faster here in Texas.”

In particular, Markusic explained, he needed the freedom to act fast. Firefly, which was valued at more than $1 billion earlier this year and plans to grow its workforce from roughly three hundred at the start of 2021 to nearly a thousand by the end of 2023, competes with some of the world’s most deep-pocketed and aggressive entrepreneurs. “Time is our most precious commodity,” Markusic explained, “and we can move a lot faster here in Texas.” In other states, he said, “you’re almost working from a position of presumed guilt, and then you have to prove you’re not doing anything wrong. In Texas, it’s set up to presume that you’re not breaking the law. That allows us to operate our site without extensive permitting. The only permitting that’s required at this site right now that I’m aware of is our septic.” The company has to abide by state and federal environmental laws, he added, but there were no bureaucratic approvals to secure before his team could start firing up the rocket blaster.

He compared that to a previous experience when he was building a test facility for Virgin in California: “When we went in to get the permitting, they wanted to classify it as a power plant. And you can imagine if you want to build a power plant, that’s going to be a tough permitting slog. It was just a silly, one-size-fits-all way of thinking.”

His comments echo those of several high-profile recent California defectors, including Musk, who told the Wall Street Journal last December, upon announcing his move to Texas, that he wished California would “just get out of the way” of innovators. That was a couple of weeks after Joe Lonsdale, an influential venture capitalist and cofounder of big-data contractor Palantir, explained his move to Austin from Silicon Valley, also in the WSJ. “Forty years ago . . . you could accomplish anything in the Golden State,” Lonsdale wrote in an op-ed that quickly went viral. “Government policy facilitated the entrepreneurial spirit. Dreamers and doers could thrive. The burst of activity in tech, finance, medicine, energy and many other industries lasted for decades. But now a state like Texas provides these opportunities without the problems and baggage California has accumulated.”
Just a few years ago, calling Texas more fertile for innovators than Silicon Valley would have raised more than a few eyebrows among the entrepreneurial elite. Texas is home to fifty Fortune 500 companies, sure, and its GDP is nearly $2 trillion, more than that of any state not named California. But the future was being built elsewhere—specifically the West Coast. Now that has changed, and the pandemic hastened the shift. In Musk’s case, legal battles with officials over COVID-19 restrictions at Tesla’s Fremont, California,

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factory were a clear catalyst for the company's eventual announcement, this October, that it would be moving its headquarters to Austin.

Of course, wealthy moguls and investors also stand to reap handsome personal financial benefits by setting up in Texas. The state famously doesn't charge income tax (though high property taxes make up the difference for a lot of homeowners). More importantly for the investor class, Texas doesn't charge capital gains tax. California's personal-income tax, by comparison, is the highest in the U.S., at 13.3 percent for sums of more than $1 million a year. The capital gains rate is similar.

And then there are the corporate incentives. Texas has long been known for luring companies away from other states with generous packages containing various tax breaks. Tesla recently negotiated a tax break worth nearly $60 million over 10 years to build its Gigafactory in Del Valle, in exchange for investing $1.1 billion in the plant and vowing to hire at least half of its expected employees from Travis County. At the time of this writing, Samsung was negotiating with Williamson County and the City of Taylor to build a potential $17 billion chipmaking plant there. The South Korean electronics giant had rejected an initial offer from the City of Austin that included almost $650 million in incentives over 10 years; the company wanted a 100 percent tax abatement for 25 years.

Whether economic incentives for business relocation come from a city, a county, or the state's Texas Enterprise Fund (former governor Rick Perry's legacy), they're almost always controversial, with opponents pointing out all the ways they can strain existing infrastructure—roads, water, schools, the electric grid—and end up costing a community as much as it gives away in incentives. The math of whether a deal ends up benefiting a community can be endlessly debated, though. Proponents argue that landing a big corporate relocation spurs investment in communities and creates jobs (though Perry also had terrific luck getting donations from a source tied to the companies his administration locked in with incentives, as a New York Times investigation famously found). A new plant like Tesla's or Samsung's will ideally lead to local home construction, investment in the local service economy, and eventual relocation of suppliers.

"HP Enterprise, Google, all these technology-based companies cannot meet their workforce demands with the current Texas workforce," said Steven Pedigo. "It just doesn't happen."

Regardless of how the math of individual economic development deals stacks up, virtually everyone agrees there's value in diversifying the state's economy. Though Texas relies a lot less on oil and gas than it did a few decades ago, fossil fuels still represent one of the largest sectors of the economy and the dominant one in the state's largest city, Houston. This puts the state at risk as the energy industry transitions away from petroleum. As Rice's Bill Fulton put it, "Houston is at a critical juncture right now. The business leaders have to get out in front to the energy transition so we remain the energy capital of the world but not the fossil fuel capital." Failing to make that shift, he said, would make Houston "the next Detroit." While Texas has, in recent years, added jobs in software development and cloud computing, those gains have been outpaced,

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sometimes drastically, by those in California and other states. Which only underscores the urgency many local leaders feel.

Even Firefly wrangled roughly $1.2 million in incentives from the City of Cedar Park when it established its headquarters there, back in 2014, and earlier this year it picked up an additional $4.3 million in incentives. That package, in addition to paying the company for each job it creates (and for purchasing and renovating a building), shells out $10,000 in cash directly to each employee who buys a home in Cedar Park. In return, Firefly pledged to create nearly seven hundred jobs in the area, with an average salary of $90,000, by the year 2030.

That sounds like a big benefit, but there's a catch, not just in Cedar Park but all across Texas: companies that relocate and expand here find it tough to hire Texans to fill many of the kinds of jobs that require the most education, expertise, and experience. "We haven't done a very good job of educating our workforce," said Steven Pedigo, at the University of Texas at Austin's LBJ Urban Lab. Those who come to Texas from other states are more likely to have college degrees than native Texans. "HP Enterprise, Google, all these technology-based companies cannot meet their workforce demands with the current Texas workforce. It just doesn't happen."

Which raises a question: If not Texans, who exactly is filling all those new jobs?

The Art of the Suburb

The immaculate streets of Frisco, in the far northern reaches of metro Dallas, nearly sparkled under a cloudless sky. It was a Thursday morning, and Dana Baird, a former Dallas TV news reporter who's now the City of Frisco's director of communications, piloted her Honda SUV from one commercial development to another, tracing the history of one of the fastest-growing cities in the country. First up was the Stonebriar Centre ("Our first economic engine," Baird said). Then the Frisco RoughRiders minor league ballpark ("Our first sports venue—the convention and visitors bureau now calls us Sports City USA"). Then the Ikea, the headquarters of the Dallas Stars National Hockey League team, the sprawling Hall office park, the stadium and practice facility of the FC Dallas professional soccer team, and ultimately, the pièce de résistance: the Star District, the gleaming headquarters of the Dallas Cowboys and surrounding office buildings, restaurants, shops, and other amenities.

It was 1987 when Baird's boss, city manager George Purefoy, settled into his job leading Frisco's development. A native of Mineral Wells, he'd been the city manager in Columbus, a hamlet that abuts Interstate 10 between Houston and San Antonio, when he decided it was time to level up and head somewhere with more growth potential. "I took out a map one night, and for some reason I followed Preston Road up through the Metroplex, because it was kind of a growth corridor, and it came up to Frisco," he told me. At that time, it had around five thousand residents and was essentially still a small rail town. But Purefoy saw it as a kind of suburban start-up, a little old place that could eventually grow into something altogether different. "So, I thought, 'If the city manager

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job ever opens up there, I'll apply.' And that night my wife and I prayed on it, and not one week later I got a call from the City of Frisco asking me to apply."

A soft-spoken, throwback gentleman who brings to mind Ward Cleaver, Purefoy became the first and only city manager Frisco has ever had—though he likes to joke that he's had an entirely different job every five years as the city has ballooned. Today's Frisco population of around 200,000 is almost double that of a decade ago, and the city projects it will reach 300,000 in the next five years or so.

There are a few keys to the success of Frisco. For one thing, abundant land and the expectation of growth: even before Purefoy showed up, city leaders had annexed land on both sides of multiple roads that stretched out from the center of town, creating what he calls "octopus arms" that would come to frame the area's eventual sprawl. Among Purefoy's first acts was securing an abundant water supply for the town and cleaning up the finances. He was essentially laying a foundation on which to replicate or improve on what the city of Plano, just south across the Sam Rayburn Tollway, had begun building a few decades prior.

Perhaps most important to Frisco was the counterintuitive fact that Dallas Area Rapid Transit (DART), the metro area's commuter light-rail system, did not extend past Plano. Whereas the communities served by DART have to dedicate a one percent sales tax to the rail system, Frisco voters elected to use that same cut of money to incentivize businesses to move in and also to buy land for parks and other amenities. The result is that entertainment is so plentiful that many Frisco residents have little reason to leave. The city is less a bedroom community for Dallas than a thriving place all its own that just happens to be adjacent to one of the largest cities in the U.S.

In economic development circles, Frisco is known for its mastery of public-private partnerships. To help build the Star District, for instance, the city, its economic and community development corporations, and Frisco Independent School District kicked in a collective $115 million, and in return Frisco's high school football and soccer players get to use the Cowboys' spectacular indoor stadium. The whole deal came together in three months, Baird told me—lightning speed for a giant commercial development on prime property in a city center. The same strategy built Toyota Stadium, which FC Dallas shares with the high schools.

"We're basically a city of immigrants," George Purefoy said, "either from within the United States or from outside the United States."

The result is a town that regularly lands on the lists of best places to live and best places to do business in America—which in turn helps it stay on the lists of fastest-growing places. And it's not all strip malls and subdivisions. Frisco has the second-largest skate park in Texas, after Houston; the largest private collection of contemporary Texas sculpture; and one of the largest collections of historic train cars in the Southwest.

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It's not slowing down anytime soon. Earlier this year the military-grade eyeglass maker Wiley X announced it was coming to Frisco from Livermore, California, and that it hoped to bring its one hundred employees along. In 2019 iconic Texas brand Dr Pepper announced it would move its headquarters from Plano to the Star. The Professional Golfers' Association of America announced in 2018 that it would move from Palm Beach County, Florida, to Frisco. The smoothie company Jamba moved there in 2016. The list goes on.

The competition for corporate relocations or expansions can be a full-contact sport among cities—sometimes even adjacent ones—but the effects often ripple out. Though Frisco lost out on one of the greatest economic development deals in the area's history—neighboring Plano landed Toyota's North American headquarters, which was relocating from Southern California—the runner-up still managed to reap the benefits. The carmaker's campus, which opened in 2017, sits at the northwest corner of Plano, close to residential areas of Frisco. Baird remembers running a trade booth back when Toyota employees were starting to explore the area and the company had set up a kind of relocation bazaar at a hotel. Because Frisco had so many new neighborhoods sprouting up, thousands of Toyota employees ended up settling there, leading to rumors of whole neighborhoods being colonized by transplanted Californians. Today, the median household income is about $127,000—more than double the number for Texas overall—and the median home value is about $400,000.

When I asked Baird whether residents of Frisco ever grouse about all the growth and newcomers, she looked at me sideways. Purefoy pointed out that in a place whose population is almost entirely newcomers, it would be hard to look askance at other fresh arrivals. "We're basically a city of immigrants," he said, "either from within the United States or from outside the United States."

Sunitha Cheruvu, who helped lead an effort to build a Hindu temple in Frisco.

The New Face of Immigration

If the city that George Purefoy built is a triumph of capitalism and Texas's natural inclination toward sprawl, it is also a marvel of something more surprising: the diversification of the suburbs in terms of race, ethnicity, and national origin.

According to the 2020 census, Texas is now the fifth-most diverse state in the country, just ahead of New Jersey and New York. (At the top of the list: Hawaii and California.) And in the major metro areas, the census showed a clear pattern of cities with static diversity levels abutting suburban counties where diversity is surging. One measure of diversity is the census-calculated Diversity Index, which demonstrates the likelihood that any two people in a community will represent different ethnic or racial groups. In Dallas County, the Diversity Index grew by just 2 percent from 2010 to 2020. In Collin County, which includes part of Frisco, that number grew by 19.8 percent.

In Frisco, the largest and fastest-growing minority group is Asian Americans, who make up nearly 21 percent of the city's population. Some 14 percent of the surrounding

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county's population traces its origins to India, with those hailing from South Korea, Japan, and China making up much of the rest. Many are new not just to the North Dallas suburbs but to the U.S. Nearly 23 percent of Frisco residents were born in another country.

Anamika Mukherjee, a preschool teacher, was born in India and moved to Frisco five years ago, after her husband's job had taken them to California, Connecticut, Brazil, and, finally, North Texas. She told me that Frisco sometimes reminds her of Little India, a famously large ethnic enclave in New Jersey that she and her husband used to visit when they lived in Connecticut. "I have three Indian stores within easy reach of my house," she said, "and you can find every single thing you might want."

She can thank, at least in part, Sunitha Cheruvu. Born in southern India, in the state of Andhra Pradesh, Cheruvu grew up in New York and New Jersey. After she met her husband, who is from Texas, she moved with him to Plano. They were happy, but as practicing Hindus they had to travel more than thirty minutes to worship at a temple in Irving.

She and members of five other families from the area joined forces to build a temple nearer to their homes, and in 2009 they ended up buying a piece of land in Frisco, on the site of a former gardening company. They gathered in a small trailer while their first permanent building was under construction. And then, in 2015, they opened a second, larger, gleaming ivory structure that they believe is the largest Hindu worship hall in the nation, at 34,000 square feet.

Cheruvu now lives, along with many other members of her faith, in the Eldorado Crossing neighborhood, in a two-story brick-facade home whose backyard fence adjoins what's now called the Karya Siddhi Hanuman Temple. "I can look out my window and see the rajagopuram," she told me, referring to the temple's ornate entrance tower, which rises seventy feet between two large elephant statues. "It's beautiful during sunrise and sunset."

In fact, all throughout Frisco, the suburban shopping centers and green spaces show signs of diversity, such as Korean dessert shops and Taiwanese teahouses. The Frisco school district recently introduced a three-week cricket unit as part of the PE curriculum. The student body at Roach Middle School, near the Hanuman Temple, is 37 percent non-Hispanic white, 28 percent Asian, 18 percent Black, 11 percent Hispanic, and 6 percent of a category that includes American Indian, Pacific Islander, and two or more races. At McSpedden Elementary, just down the road, 68 percent of the students are Asian. A few miles away in Plano, Russell Creek Park is the only park in North America to boast seven cricket pitches.

In 2019 Cheruvu helped start the City of Frisco's Inclusion Committee, of which she's the vice chair. The committee has polled residents about issues regarding diversity and inclusivity, and it has spearheaded events such as the first official city celebrations of Diwali, Kwanzaa, and Lunar New Year.

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All of which has given Frisco a reputation far beyond the state's borders. As a Dallas Morning News story put it, shortly before the temple's opening, "Young parents in India know Frisco is the place to raise a family." The story cited DFW-based tech companies as part of the allure but credited word of mouth as the greater force. Cheruvu told me the same thing. A week after the temple opened, it hosted a livestreamed chant marathon for nearly eight hundred that lasted more than 24 hours and set a Guinness World Record.

To demographers who study Texas, the story of Indian Frisco is both fascinating and no great surprise: fascinating because it's such a transformation from just one or two census cycles ago, and no great surprise because Frisco is hardly the only place in Texas to see the trend.

The call-and-response continued: It is even harder . . . to make . . . a new home . . . Everything is new . . . Everything is strange.

It was a few minutes before the lunch bell in Johnny Rios's English language arts class at the Language Institute for Newcomers, a specialty school in an annex building that connects two adjacent high school campuses in the Alief Independent School District, which straddles the city limits of Houston on its southwest side. The fifteen teenagers in this class—seven Hondurans, four Guatemalans, three Salvadorans, and one Nicaraguan—attended LINC because they were new to the U.S., and some had no experience with English. They were reading Growing Together, by the Cuban American children's book author Carmen Agra Deedy.

LINC, which was established in 2003, typically serves about three hundred students. They complete a one- or two-year program, depending on how much help they need (some come with no schooling background whatsoever), after which they join the rest of the student body at one of the district's high schools: Elsik or Hastings right next door, or a third school a couple of blocks away. Together, the three serve an astounding 11,200 students.

Much has been made in recent years in the national media about the diversity of Houston, and no place showcases it better than Alief. A mostly lower-income area, Alief is one of the country's most diverse communities. Unlike that of Frisco, Alief's population of roughly 113,000 doesn't fluctuate much, but every year droves of newcomers land here, as others who are more established disperse to the wider region. To drive through Alief is to tour the world—Vietnamese stores on this block, Chinese stores on the next, followed by Salvadoran shops, Mexican shops, Nigerian shops, and on and on. The distinctive rooflines of mosques and Buddhist temples punctuate the horizon.

In her twelve years working for Alief ISD, first as a teacher and now as the ESL department chair for LINC, Dulce Segovia has seen wave after wave of migrants from different parts of the world. There were the hundreds of Burmese students who showed up six years ago. Four years ago, there was a surge of unaccompanied boys from Central America. Today the district is expecting hundreds of Afghan refugees any day, many of

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them kids. “For me, this is very raw and real, because I went through the same thing forty-two years ago,” Segovia told me. She’s a former refugee herself, having arrived in Alief in 1980 with her aunt after escaping war in El Salvador. “We asked for asylum, and we did exactly what our students are doing now”—worked hard to find their place in a new country. She referred to the migrants massing at the border in Del Rio, as thousands of Haitians had in the weeks right before I visited Alief, and remembered an incident from childhood when someone called Salvadoran refugees cockroaches—“because there were so many of us and they couldn’t get rid of us.”

Segovia grew up in the nearby Sharpstown area, earned degrees in English and in curriculum and instruction at the University of Houston, and eventually came back for work. “Alief is family,” she and her colleagues like to say. In some ways she means that literally: many immigrant students, even unaccompanied minors, end up in Alief because they have extended family members in the area. Roughly 65 percent of students live in apartments or multifamily units.

Some also arrive in the community with pressing needs: no shoes, no familiarity with indoor plumbing. The school district provides vision and dental care, social workers to visit families, and other basic services. As superintendent HD Chambers puts it, “Not only are we teaching children how to read and write, how to add and subtract, but we’re teaching and helping people from all of these different ethnicities and cultures how to come in and adapt to our country.”

Chambers, who started his career as an assistant football coach and economics teacher in the Aldine district, on the north side of Houston, has, to his surprise, ended up dedicating his career to educating diverse populations. He landed in Alief ten years ago and has built a reputation as a passionate and innovative leader whose mantra is “meeting students where they are—as opposed to where we wish they were.”

It’s a mission that not only resonates with colleagues like Segovia—who cites it regularly—but derives from what sounds like a deep sense of patriotism. For an educator, Chambers said, the only response to the rapid diversification of the population “is to do everything you can to make sure that these individuals . . . regardless of where they come from, are educated in a way that will sustain our republic and our democracy and the things that our country was founded on.”

Of the population changes Chambers and his colleagues have observed in their district, one of the starkest in recent years has been the fluctuation in Texas’s Hispanic population: even as Hispanic Texans become the state’s dominant demographic group, fewer and fewer Mexicans are migrating to Texas. According to one analysis by Rogelio Saenz, of UT–San Antonio, Mexican migration to Texas has plunged. There are multiple reasons for this, from militarization of the border and the aging of Mexico’s population to the improving economic fortunes of Mexican women, who are having fewer children later in life. Of the Mexicans who do come to the U.S., many are now better-educated and have higher incomes than in the past. This year the Hispanic population at LINC largely comprises refugees from Central and South American countries—most from El Salvador,

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Honduras, and Guatemala, which are wracked by organized crime and sagging economies.

Whereas some years the LINC classrooms serve kids speaking dozens of languages (there are more than ninety languages spoken in the surrounding community), in 2021 the vast majority of students are native Spanish speakers. Of the Hispanic students, very few come from Mexico. “Can you imagine the ganas, the desire, to better their lives?” Saenz had asked me, referring to Central American refugees. “They are walking, sometimes unaccompanied, without their parents, hundreds or thousands of miles, and then we have them here and have the possibility that they can be our future workforce.”

A few blocks from LINC, in a sprawling, glassy new building that opened in 2018, Jennifer Baker works to make that possible. Baker helps run the Center for Advanced Careers, where Alief students train to work in construction, IT, health care, and other high-demand industries that don’t require college degrees for many well-paying jobs. There are state-of-the-art robot arms in the advanced manufacturing lab. There’s a working pet day care in the veterinary science lab and a working auto shop. In the wood shop, they build furniture for Mattress Mack at Gallery Furniture. “They have to make money to pay for our operations,” Baker said.

With Hispanic Texans on pace to be the dominant demographic group, their lower average educational attainment looms as a crisis for the state’s economy. Whereas nearly 95 percent of non-Hispanic white Texans aged 25 and over have at least a high school degree, that number is less than 70 percent for the Hispanic population. One of the ways that students who are starting at a disadvantage can gain an edge, superintendent Chambers believes, is by getting vocational training that directly meets employers’ needs. Vocational programs are nothing new in high schools, of course, but the scope of the program in Alief looks more like that of a community college, and its partnerships with employers run deep.

“You know the company Trio Electric?” Baker asked me, referring to the Houston-based commercial electrical contractor. “They wrote our electrical curriculum. Their workforce shortage is tremendous. They provide all the equipment, all the supplies. And then after the students’ junior year, they give them an internship in the summertime that pays four thousand dollars. Kids in this neighborhood making four thousand dollars—you might as well tell them they’re making a million bucks. So then, senior year, they’re more excited to finish out the program. And then they go in for interviews, and up to twenty-five of our kids will have a good chance to get hired.”

As she spoke, a voice periodically boomed out of the PA system advising prospective students to rotate to the next lab. Signs in the lobby welcomed a delegation of recruiters from CenterPoint Energy. “I’ve given over five hundred tours of this building,” Baker said, her voice catching, “and I spend a lot of time showing people what my kids can do. A lot of them get it, but we’re still in the baby stages of businesses realizing the gold mine of talent they have here.”

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The Not-So-Great Sorting

Peter Rex's Texas journey doesn't have much in common with that of the students at LINC. The 39-year-old embarked on a career in business, he told me, when he realized, after consulting with the abbot at a Catholic monastery, that capitalism would be his best avenue for serving Jesus and helping people on the widest scale possible. Rex subsequently made a bundle of money for himself and his investors by buying and managing undervalued apartment complexes in Texas and Florida after the Great Recession, from what at the time was his base, in Tampa. In 2016 he moved to San Francisco to start a portfolio of real estate and insurance tech businesses, and then moved to Seattle in 2018 to be closer to Amazon's and Microsoft's headquarters and learn from their empire-building prowess.

In both of those West Coast tech hubs, he realized, some of his employees couldn't afford to buy homes. But more importantly, he wrote in a June 2020 WSJ op-ed, "both [cities] have become hostile to the principles and policies that enable people to live abundantly in the broadest sense." In Rex's view, he wrote, not only were West Coast state governments stifling free enterprise, but the culture was stifling freedom of speech and freedom of religion. "In both San Francisco and Seattle, many of our Christian and Muslim friends and employees have expressed concern that their deeply held views are being driven from the public square."

Rex wrote the op-ed to announce his move to Austin. "In Texas, the quintessential American ideals of family, faith, and freedom still reign supreme," he wrote, adding that "as the West Coast becomes more insular and exclusive, other parts of the country will become the biggest drivers of tech innovation." The column came out at the height of the first wave of the coronavirus pandemic and the presidential campaign season. Conservative media and the financial press quickly elevated Rex's move as a signal moment—and talked up Rex as a tech titan (which he's not). As the pandemic drove a wave of individuals and companies to move to Texas and Florida from California and New York, Rex's story came to define part of the narrative: migrants were leaving the coastal hubs not just because they couldn't justify overpaying for shoebox apartments during a lockdown but because they'd finally had it with failed liberal policies that created expensive cities riddled with crime and homelessness and livable only for the superrich.

"We didn't feel safe talking about having voted for Donald Trump in 2016," Marie Bailey told me.

For Marie Bailey, a realtor who lives in Prosper, just north of Frisco, that line of thinking sounds familiar. When she and her husband moved their family from El Segundo, California, to North Texas four and a half years ago, they were effectively giving up on their lifelong home for reasons she cites as "cost of living mixed with politics. We didn't feel safe talking about having voted for Donald Trump in 2016," she told me. "And then you get a seven-hundred-dollar car-registration bill, and voters vote in higher gas prices—I mean, who does that?" The Baileys bought a new-construction home in the Windsong Ranch community, across the street from a lagoon with an artificial beach, and

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Marie quickly spotted a business opportunity to help other escaping Californians find similarly soft landings. She got her realtor's license and, to find clients, started a Facebook group called "Move to Texas From California!" Today that community has 34,700 members, and Bailey's business is booming.

From her perspective, conservative Californians' desire to flee has grown throughout the pandemic, as frustrated families sought a place where their kids could return to school sooner. "I had people coming here crying when they'd see kids playing on playgrounds," Bailey said. "They couldn't do that in California." Although she shares those sentiments and sees migration to Texas as a "red wave," Bailey also knows the full picture is complicated.

In fact, Bailey and Peter Rex landed at the center of an argument that has circulated in political circles for years. It holds that a great ideological sorting is underway, in which like-minded people gravitate toward one another, often across state lines. Those who see California as a nanny state will escape to a more enlightened Texas, while those who see Texas as a fundamentalist petro-state will escape to a more enlightened California or Colorado. Swap California for New York and Texas for Florida, and the argument stays largely the same.

At the same time, many Texans have seized on Governor Abbott's rallying cry "Don't California My Texas." Indeed, his 2018 reelection campaign played out against a changing electoral map. Barack Obama lost Texas by sixteen points in 2012. Hillary Clinton lost the state four years later by nine. And Joe Biden came within six. Some previously deep-red suburban counties now trend purple or even blue. Abbott was arguing that new Texans might be responsible for the change and that it wasn't welcome (though he's also, at various times, argued the opposite: that folks coming from California are conservatives who should be embraced).

But according to Derek Ryan, a GOP political consultant who leads voter-targeting efforts for candidates up and down the ballot, there's very little data to support either argument—that Texas is growing more conservative because of ideological sorting or that it's becoming more liberal at the hands of Californians. One of Ryan's clients is Congressman John Carter, whom I'd met earlier at that bar in Austin, and who represents several fast-changing suburban cities. Ryan has watched the evolving Texas suburbs closely; he's seen migration patterns in person and in the data.

To identify likely new Texans in the data, Ryan looked at those who registered to vote after the 2018 election and ended up voting in 2020, and then he zeroed in on the subset over the age of thirty—to rule out young people, including longtime Texas residents, who were probably registering for the first time. He turned up 1.3 million voters, "but trying to figure out their political ideology is tricky because they haven't necessarily voted in a Republican or Democratic primary," he said.

So, he turned to modeling data, the kind of information voter-targeting groups use to identify friendly targets based on their consumer spending habits, income levels,

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homeownership, and so on. “There are literally hundreds of data points to model people and determine if they’re likely Democratic or Republican voters,” he explained.

According to Ryan’s best analysis, 50.4 percent of his possible new Texans were likely Democratic voters, and 49.6 percent were likely Republicans. “So, you know,” he said, “we hear a lot about these people moving from blue states and bringing blue-state politics with them, but it doesn’t necessarily appear that that’s the case. It’s closer to right in the middle. There are certainly some hard-core liberals moving here that are still voting that way, but it appears that it’s a wash as far as Republicans versus Democrats.”

Rice University’s Bill Fulton has looked at myriad possible explanations for the ebb and flow of migration from California and found that, as he wrote in a post on the Kinder Institute’s website, “the driving force is not a pull into Texas but a push out of California: home prices.” That is, when the price of a house goes up on the West Coast, people come to Texas. When the prices ease, fewer make the move.

Of course, Fulton published that piece before the governor signed one of the nation’s most restrictive abortion laws, effectively outlawing the procedure, as well as one of the nation’s most severe restrictions on voting—on top of a law discriminating against transgender students and one permitting the open carry of handguns without permits or training. The City of Chicago’s economic development arm took out a full-page ad in the Dallas Morning News trying to lure alarmed Texans away. The real estate bonanza had, meanwhile, prompted northwest Arkansas to begin trying to lure away Austinites being priced out, and California-based companies such as Salesforce began offering to help any of their Texas employees to relocate in the face of Abbott’s actions.

Still, Fulton speaks for many who study migration into the state when he says he doesn’t expect the flow of new Texans to slow down anytime soon. “Texas may be hot in the summer, and you may not agree with the politics. It may be sprawling, and you may have to buy an F150 pickup. But it is probably unparalleled in the country right now as a place of economic opportunity.” For many, he said, it’s still “a place where you can get ahead.”

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Education

Houston-Area School District Drops Gender-Based Policy On Long Hair
By Allyson Waller
Texas Tribune

A Houston-area school district has reversed a dress code policy that prohibited male and nonbinary students from wearing long hair — more than a month after a lawsuit accused the district of enforcing a discriminatory rule.

The Magnolia Independent School District’s school board voted on Monday night to alter its dress code and eliminate the policy, according to the American Civil Liberties Union

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of Texas. The ACLU of Texas said the district reached a settlement agreement that allows for students who were previously disciplined under the school's former hair policy to "have their records expunged."

The district confirmed Tuesday that under the agreement, male students will no longer have to keep their hair within a certain length. It will also make its dress code policy on earrings gender-neutral. The district's 2021-2022 student handbook currently says earrings should be worn only by female students and "earrings worn by boys will be confiscated and may not be returned to the student."

The ACLU of Texas announced in October it was suing the district on behalf of seven students over the district's hair policy, which stated that hair must "be no longer than the bottom of a dress shirt collar, bottom of the ear, and out of the eyes for male students." The lawsuit claimed the district violated students' right to equal protection under the Fourteenth Amendment and Title IX, a federal law that prohibits discrimination on the basis of sex in educational institutions that receive federal dollars.

In a temporary ruling in late October, Chief Judge Lee H. Rosenthal of the United States District Court for the Southern District of Texas said plaintiffs' legal arguments had "a substantial likelihood of success." Last month, Rosenthal issued a preliminary injunction that required the district to suspend enforcement of gender-specific provisions in its dress and grooming code.

Brian Klosterboer, a staff attorney with the ACLU of Texas, said the school board's decision Monday might lead other school districts across the state to take a closer look at their gender-based dress code policies and reconsider them.

"School districts shouldn't wait until students are actually harmed under these policies, and they've been forced to file complaints or lawsuits," Klosterboer said. "They should take proactive steps to update their dress codes in accordance with federal law."

Concerns over dress codes have sprouted across Texas school districts in recent years, with the ACLU of Texas estimating that nearly 500 of the state's more than 1,200 districts have "outdated and unconstitutional dress codes."

The issue has already attracted legal scrutiny in other parts of the state. Barbers Hill ISD near Houston was sued last year after two Black students who wore their hair in dreadlocks were punished for breaking the district's hair policy for male students. The case is still ongoing, and a preliminary injunction was issued in August 2020 that suspended enforcement of the hair policy.

Danielle Miller, whose child Tristan is nonbinary and was one of the seven plaintiffs in the lawsuit against Magnolia ISD, said in a statement she and her family are relieved by the district's decision to get rid of its hair length policy.

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“Our community never gave up fighting to put an end to this harmful policy,” Miller said. “We hope today’s result will be a sign to other school districts in Texas that changing discriminatory policies like these is the right thing to do.”

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Parents Upset 14-Year-Old Students At Texas School Assigned ‘Pornographic’ Book
By Christina Aguayo
KTSM

A reading assignment at Eastlake High School is being described as pornographic and has parents concerned, saying the sexually graphic nature of the book is completely inappropriate and should not be assigned to students, especially with out parental consent.

The book is called The Perks of Being a Wallflower and it’s not new to controversy. In fact, according to Marshall Libraries, it has been challenged or banned by numerous entities every year since 2003.

Elda Marmolejos, who has a child enrolled in Eastlake High, said she feels the book should not be assigned to such a young age group, especially with out parental consent.

“My concern is that my child was assigned a very inappropriate book by his English Teacher. There was no parent consent form sent out for me to sign. He basically said that the book was graphic and they needed to act like adults. The content is very inappropriate. It talks about sex, drugs, alcohol [and] minor abuse. It goes into detail about teenager being raped and she goes to get an abortion without parental consent. It is very graphic and it is very inappropriate for such a young age group to be reading and just having access to it at a Texas public school. [There is also a part] Where two boys are having sex and the book goes into detail about [it.]

Judge linked to racial slur video says sedative left her with ‘zero recollection’
Marmolejos said she feels as though the school let her down.

“I believe that a teacher’s job is to teach children or students how to think not what to think. I think it should be up to the parents to decide what’s appropriate. We try to teach them morals at home we try to teach them wrong from right.

Such sexual content is something that a parent should sit down with their child and talk about. That is not the teachers role. We have lived in the state of Texas for years, my kids have grown up here and I never thought that I would have to be dealing with this.

As far as parent consent, I think the teacher should have used more transparency. He did send out a syllabubs at the beginning of the year but the only thing it said is that there was controversial material. That is broad.”

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Marmolejos said she met with the Principal of Eastlake High School and librarians from the school and the SISD, but she said she felt they spent the entire meeting trying to 'defend' the teacher and convince her they followed policy.

In a meeting that was taped by Marmolejos, with the consent of all in the meeting, a school administrator said, "What I want to do is we're validating why he chose the book – we want to go through the rest of the policies legal and local."

At another point in the meeting another school administrator said, "Is the content appropriate for the freshman? I think you and I can both agree its very very questionable. It's probably not the most appropriate."

Popular payroll system targeted in ransomware attack
Marmolejos also spoke at an SISD board meeting however the book was not on the agenda.

In a previous interview with KTSM 9 News Anchor Christina Aguayo, Governor Greg Abbott talked about his order to remove pornography from schools, and launch investigations into those schools who kept in on the shelves,

Marmolejos said she would do anything to safeguard her children, even alert the governor, who signed an executive order which says pornography must be removed from public schools

"I saw the image that was in one of these books that was available for students in schools and it is clearly unequivocally pornography. There is a state law against providing pornography to anyone under the age of 18. There's a state law against providing porn to anyone under the age of 18 and that's exactly what some of these schools have done, as a result these schools have been immediately removing these books from their libraries. That's what we expect from these schools, and more importantly that's what parents expect from these schools. Parents they want their child to go school and learn not to be indoctrinated into something that would involve pornography. My job as governor and the job of education leaders in the state is to make sure we are educating our children to be competitive in the workforce not indoctrinating them with things like pornography. - Governor Greg Abbott

Socorro ISD officials tell KTSM 9 that their policy allows parents to request a formal review – after the informal inquiry that was made about this particular book. They add that the school and the district are reviewing how parents are notified about books with a graphic nature being used in class.

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Analysis: Some Texas Lawmakers Are Worried About The Wrong Reading Problem
By Ross Ramsey

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Texas Tribune

Texas has a problem that's bigger than the stories in the books at the school library.

If you were put on the spot and asked what needs to be done in public education in Texas, and if you were a candidate in the upcoming GOP primaries, boxing up some of the books available in schools might be the first thing on your lips. Maybe you'd also fret over subversive ideas in social studies and history texts.

But dictating what students are allowed to read depends on their ability to read in the first place. Falling test scores and learning lost to the pandemic might not light up the crowds at political rallies, but it's a bigger issue than books that offend legislators' tender sensibilities.

Election years are like that.

With any luck, you can push these debates out of mind until 2022 gets here in a couple of weeks. After that, it'll be almost impossible to ignore. It's already difficult to ignore: As of Monday, the people who'll be on the ballot have all filed their papers with the parties and the state. The regular Austin spots where pols go to raise money are bustling with check-writing lobbyists and other interested parties. Voting in the primaries starts in the third week of February. The wave of political advertising will start as soon as the holiday advertising stops.

Some voters cope by tuning everything out. Turnout in party primary elections in Texas is dismal. In 2020, a presidential election year when turnout is usually at its highest, 12.4% of registered voters showed up for the Republican primary and 12.9% voted in the Democratic primary. Most — 74.6% — didn't vote in those primaries. The numbers are even lower when you look at the whole voting age population of the state — the registered voters and the Texans who haven't registered. Less than 20% of the state's adults went to the polls two years ago.

Others cope by limiting their attention only to the candidates on their own side of the party line. That cuts the noise in half.

Some spend their attention carefully, sticking to issues that they care about and ignoring the noisy wedge issues that sometimes overwhelm political conversation and turn the public square — or the living room — into a kennel full of barking dogs.

Some candidates benefit from the barking, and from the fears stirred by whistles only their followers can hear. Besides, it's easier to get a crowd stirred up by something uncomfortable in a young adult novel than by descending scores on math tests.

Want a taste? In 2019, 48% of third graders and 56% of fifth graders met or exceeded the standard on STAAR tests in Texas public schools, according to the Texas Education

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Agency. In spring of 2021, 30% of third graders and 43% of fifth graders were up to standard on those tests.

Wars over the contents of books are as old as books. It would be sweet if people fought as hard over why students don't spend enough time in libraries in the first place. But content fights are better political issues, raising voter passion without risking a debate on the overall quality of education kids are getting in Texas.

Education is hard — for teachers, students, makers of policy and law, and politicians. It's easier, unless voters are unusually focused, to sway an election with a debate over books most people will never open than to sway it with a debate about STAAR reading assessments that have dropped in every single grade in Texas elementary and middle schools over the last two years.

What's written in books is only a problem for people who can read. But in Texas politics, the quality of education isn't what draws a crowd to the polls. If it was, politicians would be recommending books to read instead of pulling titles off the shelves.

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Business/Economy

Austin Chamber Of Commerce Granted $100k For Austin Employment Growth
KTBC

The Austin Chamber of Commerce has been awarded a $100,000 grant from Texas Mutual Insurance Company as part of a $2 million request for proposal that has already awarded 44 different organizations across the state.

The grant is being received through the Chamber of Commerce's 501©(3) designated organization, the Quality of Life Foundation. The foundation focuses on increasing opportunities of employment and career advancement in the Austin community.

"We're incredibly grateful to Texas Mutual for granting us the funds to progress the important work that the Chamber is doing for workforce development," Laura Huffman, president and chief executive officer of the Austin Chamber of Commerce, said.

"This funding ensures our programs can focus on doing the work that is vital to this region: reducing unemployment, growing the region's talent pipeline, and seeking out more opportunities for career growth. Through these initiatives, the Austin region will continue its rapid expansion into new industries and remain a hub for job seekers and employers around the world."

The grant will help support a new platform created by the Quality of Life Foundation, the "512 Career Bridge". It will assist K-12 students, job-seeking adults, and the general public to explore in-demand jobs, attend career panels and events, and other career-

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related opportunities. The Foundation plans on working and engaging with local businesses, career professionals, and schools in Austin to create a diverse area of opportunity.

To view the full list of workforce development and safety training grant recipients, visit the Texas Mutual website.

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UTEP Awarded $500K Grant To Grow Aerospace And Advanced Manufacturing Sectors In Region
By Chris Babcock
KTSM

As part of the initial phase of the Build Back Better Regional Challenge, the University of Texas at El Paso, along with several regional and national partners, will look to build on UTEP's success and increasing prominence in the aerospace and advanced manufacturing fields to bring more jobs and spur growth in the economy of West Texas, via a $500,000 grant from the Economic Development Administration (EDA).

Officials say the project will be managed and executed by the newly formed West Texas Aerospace and Defense Manufacturing Coalition, which is led by UTEP and includes several national and regional partners such as the City of El Paso and the El Paso Chamber.

The group proposes to catalyze economic growth in aerospace and defense manufacturing by developing the El Paso Makes Advanced Manufacturing District and the West Texas Advanced Technology Corridor.

According to officials, the aim is to create 4,000 new engineering and technologist positions and 13,000 technical positions in aerospace and defense manufacturing in West Texas by 2030. The coalition also will work to bring 300 of the region's manufacturers into aerospace and defense supply chains in that same timeframe.

The West Texas region includes El Paso, Hudspeth, Culberson, Jeff Davis, Brewster and Presidio counties.

"Aerospace and defense manufacturing represents a transformational economic development opportunity for El Paso and West Texas…As a national leader in aerospace, defense, and additive manufacturing research and development, UTEP is grateful for this U.S. Economic Development Administration grant to help develop more high-paying jobs in the region while enhancing U.S. competitiveness. We have a great foundation to build upon and we look forward to working closely with partners to plan next steps."

As finalists in the challenge, UTEP and its collaborators will now have the opportunity to strengthen their proposal and compete for an additional award of up to $100 million.

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UTEP's proposal, titled "Reclaiming Aerospace and Defense Manufacturing Dominance through Frontier Technologies," aims to help close America's gap in aerospace and defense manufacturing capabilities while providing the potential for economic growth and job opportunities for UTEP students and other residents across West Texas.

Sixty projects were named finalists out of 529 applicants that submitted entries to the Build Back Better Regional Challenge in October, according to the U.S. Department of Commerce.

Each of the projects targets a sector of the economy that is specific to the applicant's geographic region.

"We have built this strategy from the strength of significant aerospace, defense and advanced manufacturing capabilities and activities that, if better connected and resourced, could make West Texas a strategic national hub for aerospace and defense manufacturing," said Ahsan Choudhuri, Ph.D., associate vice president for the Aerospace Center (cSETR) at UTEP and principal investigator for the project.

Anchoring the region's capabilities and competitive advantages are the research preeminence and talent development pipelines at UTEP's Aerospace and Keck centers. Both research centers are national leaders in supplying a diverse, industry-ready, highly skilled workforce. They are also widely regarded as leading innovators in aerospace, defense and additive manufacturing technologies.

"Being selected as a finalist is a huge accomplishment and fantastic opportunity for our region…our community's success is a direct result of a focused strategy to leverage our community's assets, such as UTEP's students and team. We are also ideally located for success due to our proximity to Fort Bliss and nearby investment in the aerospace industry. We look forward to our continued work with UTEP, the Chamber, and our other coalition partners to grow the regional aerospace and defense manufacturing industry cluster and, ultimately, advance our community's quality of life by creating jobs and investment."

The coalition has identified several core strategic manufacturing strengths in our region that will contribute to strengthening the nation's defense and industrial sectors.

These include additive manufacturing, robotics and automation, precision and high temperature machining, advanced tool and die making, and electronics. Areas of potential growth opportunity regionally are in electronics manufacturing and cybersecurity for manufacturing.

"There is vast untapped opportunity in the region for job creation in aerospace and defense manufacturing, including three military bases – Fort Bliss, White Sands Missile Range and Holloman Air Force Base," said Ryan Wicker, Ph.D., executive director of the W.M. Keck Center for 3D Innovation at UTEP, and co-principal investigator of the

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project. “West Texas is part of the fourth-largest manufacturing hub in the world, which also includes Juárez, Mexico, and Doña Ana County, New Mexico.”

In the past decade, these research hubs have trained and placed more than 600 engineering graduates in the aerospace, defense and advanced manufacturing industries. In the 2019-20 academic year alone, Lockheed Martin hired 101 UTEP engineering students across its business units from these research centers.

Additionally, the Keck and Aerospace centers have performed agency and industry sponsored research and development work valued at more than $90 million since their inception.

“I am grateful to UTEP for their partnership in championing economic development investments,” said U.S. Rep. Veronica Escobar. “I look forward to seeing how this innovative project will help get our aerospace and defense manufacturing industry to the next level.”

The finalists in the Build Back Better Regional Challenge will now compete for Phase 2 funding. The deadline to submit applications for those awards is March 15, 2022

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New Amazon Facility Set To Bring Economic Boom To The Coastal Bend
By Michael Gibson
KIII

The Nueces County Development Commission came together virtually to discuss the topic of Amazon's "Last Mile Facility" being built by the airport.

Work crews are busy converting the old Baker Hughes Oilfield service operations center into Amazon's "Last Mile Facility." The Nueces County Development Commission met with Amazon company officials in a virtual meeting to give county leaders the newest and latest information about the 140-thousand square foot package delivery facility.

Nueces County Judge Barbara Canales was eager to discuss the benefits that the facility will have for the local economy.

"It's going to be the largest last mile network of its kind," Canales said, "So, I think that's really great. They're going to start with 50 employees and then ramp up to 150, and the starting pay is $15.50 an hour."

Canales told 3News that Amazon also told the County that it's looking at getting packages to Corpus Christi customers faster than it's 2-day prime promise.

"We might have the opportunity for same-day delivery. That's kind of a big deal for a lot of us," Canales said.

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While there aren't actually any Amazon employees currently on-site at the facility, sometime early next year the facility is supposed to be up and running.

Canales saying that once Amazon opens its facility, the county will then try and get the company to build a larger distribution center in the area like it has already done in San Antonio.

"We are going to let them move in and be happy about their presence," Canales said, "But get right to work in the concept of 'hey, we think we are ripe and primed for the distribution center.'"

Canales believes that the Corpus Christi area would be the perfect spot due to being the bridge between San Antonio and the border, especially after the I-69 corridor is completed. Canales adds that it also makes good sense for Amazon to want to be a bigger part of a growing and thriving area.

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Waco Job Market 'Booming,' City Leaders Believe Central Freight Workers Won't Be Jobless Long
By Alicia Naspretto
KXXV

There's now less than a week left before Central Freight Lines ends its 96-year-run in Waco and more than 2000 employees nationwide are still struggling to process the unexpected closure.

Many showed up for work Tuesday morning and found the gate closed and security on the property.

Hundreds of local workers employed at the Waco headquarters will soon be jobless, but the Greater Waco Chamber of Commerce told 25 News it doesn't expect them to be without a job for long.

"The silver lining to all of this is our economy here in Waco is just booming right now and there's lot of opportunities for those individuals to be replaced into new employment and to be reskilled if they choose to do so," Senior VP for Economic Development Kris Collins said.

The City of Waco and the mayor refused interviews with 25 News but released the following statement also boasting about the local economy.

"The job market in Waco is strong, and we feel confident with the number of new businesses and industries coming in that people will be able to find jobs. There are many industries who are interested in hiring from our Waco workforce."

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Kris Collins said they knew Central Freight had struggled for a while financially, but the closure was still a shock to everyone.

"I think anytime a long-tenured employer decides to close their doors, especially abruptly like this, it tends to have a rippling effect emotionally through the community," she said. "Certainly, it's going to be impactful to those individuals and how it's going to impact their households, but hopefully that's a short-term issue they're going to face."

Collins also said the Chamber has programs to help connect those workers with open positions in the area.

25 News also called Central Freight Lines for two days, but they have not been available for comment.

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Immigration/Border Security

"I Thought He Was Going To Kill Me": Migrants Say Return Of Trump-Era Border Policy Will Put Asylum Seekers In Danger
By Uriel J. Garcia
Texas Tribune

Lisbet was facing jail time in her native Cuba for questioning the integrity of an election, she said. So she and her husband sold their belongings and bought a round-trip plane ticket to Nicaragua, lying to Cuban immigration officials that they were taking a vacation.

They left their two daughters with Lisbet's mother and told their older daughter they would reunite later in another country.

After traveling through Central America and Mexico, Lisbet and her husband reached the El Paso-Ciudad Juárez international bridge in May 2019 and asked for asylum in the United States — joining thousands of other migrants who have made the same journey.

Immigration authorities sent her husband to an immigration detention center in Houston and sent Lisbet back to Juárez under a policy called the Migrant Protection Protocols, or MPP. Informally known as "remain in Mexico," the policy was aimed at deterring migrants from crossing the U.S.-Mexico border.

In Juárez, she said a Mexican police officer began harassing her, then stalking her — and later raped her so violently she had to undergo reconstructive surgery.

"I thought he was going to kill me," she said. "All I kept thinking about was if I was going to be able to see my daughters again."

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Following a federal judge's order, the Biden administration last week began to restart MPP, which during the Trump administration forced Lisbet and thousands of other asylum-seeking migrants to stay in Mexican border cities as their cases made their way through U.S. immigration courts.

Officials said the program would first be revived in an undisclosed border city, then migrants would be enrolled into MPP at El Paso, Laredo, Brownsville and San Diego.

Some human rights advocates, and migrants who have been placed in MPP, say reviving the program puts more migrants in danger of being targeted by criminals in Mexican border cities. Human Rights First, a New York-based organization, recorded 1,544 cases of killings, rapes and kidnappings of migrants who were forced to remain in Mexico between MPP's launch in January 2019 and January 2021, when the Biden administration suspended the policy.

Texas Attorney General Ken Paxton joined the attorney general of Missouri to sue the Biden administration in April, claiming that suspending the policy violated administrative law. District Judge Matthew J. Kacsmaryk, a Trump appointee in Amarillo, agreed, but the administration appealed all the way up to the U.S. Supreme Court, which denied the administration's request to temporarily pause Kacsmaryk's ruling.

The case went back to the 5th U.S. Circuit Court of Appeals, which on Monday ruled to uphold Kacsmaryk's ruling.

In the lawsuit, Paxton also argued that without MPP, human trafficking would increase and force the states to expend resources on migrants — such as providing driver′s licenses, educating migrant children and providing hospital care.

"I will continue to fight to restore safety and order along our southern border, making sure that this essential program is implemented in full compliance with the court's order," Paxton said in a statement.

Under the Biden administration′s version of MPP, migrants from all of the Western hemisphere can be sent into Mexico — previously it included migrants only from Spanish-speaking countries and Brazil. The migrants can receive a COVID-19 vaccine before immigration officials return them to Mexico.

Tami Goodlette, director of litigation for the Texas-based Refugee and Immigrant Center for Education and Legal Services, said the Biden administration "must stop fueling cruel and heartless cycles of displacement."

"Instead of providing care and safety for migrants, the U.S. is actively choosing to create an environment of rampant danger and abuse where vulnerable people are at an increased risk of violence and exploitation," Goodlette said.

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Lisbet, 37, was one of the 71,000 people sent back to Mexico during the Trump administration, and the asylum cases of more than 25,000 migrants placed in MPP remain pending, according to the Transactional Records Access Clearinghouse at Syracuse University.

Lisbet, who asked to be identified only by her first name because her daughters are still in Cuba and she fears the government may retaliate against them, called the policy "an injustice because it's denying a human being the possibility of seeking safety."

Gabriel, a 45-year-old who was forced to stay in Juárez for a year and a half, fled Venezuela in April 2019 and requested asylum at Santa Teresa, New Mexico. Immigration officials sent him to Juárez, where he said he lived for 16 months before he was reunited with his sister in South Carolina.

Unlike Lisbet, he was able to get a work permit in Mexico and find a stable place to live. He said he felt lucky that he wasn't a victim of violence or the elements: Two boys in a migrant camp died of hypothermia while he was in Juárez, he said, and a Cuban man was shot to death in a city plaza.

"The MPP the way I lived it, was not 100% humane," said Gabriel, who asked to be identified with a pseudonym because he fears the Venezuelan government might retaliate against his two children. "A lot of the people who went through it with me felt discouraged and duped because the program didn't give them any hope."

"They couldn't do anything for me"
After Lisbet cast her ballot in Cuba's constitutional referendum in February 2019, she said she stayed near the voting booths awaiting the results instead of going back home as she'd been told. When she refused to leave, voting officials accused her of interfering in the process and called the police.

A plainclothes officer took her to a police station, where Lisbet, who was three months pregnant, insisted the vote was a sham. She said the angry officer struck her face, causing her to fall. The officer put Lisbet in a cell as she bled through her pants. She said she was denied medical care until three days later, when police took her to a hospital and a doctor told her she had lost the baby.

"I was devastated and filled with anger," Lisbet said. "My husband was scared and he said, 'If we don't leave, we're not going to be alive much longer.'"

When Lisbet and her husband reached the international bridge at the Texas-Mexico border, she said immigration officials placed them in a makeshift camp in El Paso, separating them by gender and taking away their belongings.

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She was in the camp for 40 days before officials gave her a court date and then dropped Lisbet and six other asylum-seeking women in the middle of Juárez. The seven of them put their money together to rent a hotel for the night.

"We were all confused and disoriented because we were told there would be shelter and none of us knew each other," she said. "I was desperate because my husband was the one with all the money."
That night, Lisbet called relatives in Cuba. She said her brother put her in touch with a friend in the U.S., who wired Lisbet money to Juárez to buy food, clothing and lodging. Relatives also told her that her husband was in a detention center — he'd called them earlier.

Her first court date was in El Paso roughly two months later, in August 2019. After she made her case for asylum, she was sent back to Juárez, where she rented a house with other asylum-seekers. She couldn't legally work, so she said she cleaned homes and helped vendors set up food stands in exchange for food.

Between her second and third court dates, Lisbet said a Juárez police officer began to harass her, asking for sexual favors and threatening her with deportation if she refused. She said she started moving from house to house to avoid the officer.

On Oct. 17, 2019, he seized her passport after she refused his sexual advances again, she said. The following day, she said she filed a complaint with the police. The angry officer then showed up at the house where she was staying, Lisbet said, and threatened to have her killed for reporting him. She said she went to the international bridge and told the immigration officials about the officer's harassment and threats, begging to enter the U.S.

"I kept crying to them, but without any compassion, they just told me no, they couldn't do anything for me," Lisbet said.

On the night of Dec. 7, 2019, two days before her court hearing in El Paso, she was walking in an empty street alone when the officer found her and raped her.

"I was in shock," she said. "I couldn't believe the physical pain I was in. I also started to feel shame because I would have to explain to people what happened to me."

A couple found her in the street and called an ambulance, which took her to a hospital where a doctor performed reconstructive surgery to repair the damage from the attack.

She didn't want to tell her husband, who by then had been released into the U.S. and was living in Austin with a cousin. (Lisbet said they never figured out why her husband wasn't placed in MPP.)

But her husband kept asking why she had ignored his calls and text messages for three days. She finally told him what had happened.

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“He started to cry a lot, he started to worry even more,” she said.

Lisbet said she still hasn’t told her mother and daughters about the rape. She said she doesn’t have the courage.

Another chance

Recuperating in a hospital bed, Lisbet missed her court hearing — she sent her hospital records with another asylum-seeker, hoping the U.S. immigration officials wouldn’t throw out her case. The woman came back with bad news: Lisbet’s asylum claim was closed because she hadn’t made the hearing, and immigration officials had issued a deportation order for her if she ever entered the U.S. illegally.

“I felt defeated,” she said. “I thought to myself, ‘I guess I’m going to have to stay here and just try to make a life for myself.’”

Lisbet said she stayed with a friend for eight months before the police officer who attacked her began to threaten the woman. Lisbet didn’t want her friend to get hurt, so she went to the international bridge in July 2020 and asked to enter the country.

This time, they sent Lisbet to a detention center in El Paso, where she told an immigration officer about losing her baby in Cuba and the Juárez officer who had raped her.

“I remember him telling me, ‘You can cry and throw a fit, but you’re being deported back to Cuba regardless,’” Lisbet says.

A fellow detainee told Lisbet about Diocesan Migrant & Refugees Services. Marysol Castro, a staff attorney for the organization, took Lisbet’s asylum claim to the Department of Justice’s Board of Immigration Appeals and asked to have her case reopened.

In December 2020, Lisbet was released from the detention center and went to Louisville, Kentucky, to reunite with her husband, who had moved there to live with a relative.

Three months later, Castro received a letter from the immigration board that it agreed to reopen Lisbet’s asylum case.

Lisbet says it’s been a tumultuous two and a half years. She and her husband don’t work because they are not legally allowed to, she said. Their relative in Kentucky is supporting them.

She said she doesn’t know when her case will be resolved — or when she’s going to see her daughters, who are now 17 and 7.

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"I feel a lot of pain and sadness of course because it's been hard," Lisbet said. "But I keep thinking if I stayed in Cuba, I could have been imprisoned and kept away from my daughters.

So what gives me hope is that now that I'm physically OK in the U.S. that I have a chance of seeing my daughters again."

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Opinion/Editorial

Democrats Should Stick To Their Guns When It Comes To Firearm Safety — Even In Texas
By Erica Grieder
Houston Chronicle

Once upon a time, Democrats running for statewide office in Texas were reluctant to get crossways with Second Amendment enthusiasts in this historically gun-friendly state.

There's also been a widespread assumption among political observers that former U.S. Rep. Beto O'Rourke damaged his statewide prospects in Texas — perhaps irretrievably — when he took issue with assault weapons during his brief bid for the 2020 Democratic presidential nomination.

"Hell yes, we're going to take your AR-15, your AK-47," O'Rourke said in a September 2019 debate, hosted by Texas Southern University.

Whether you agree or disagree with that proposal, there's something quite refreshing about the El Pasoan's refusal to backpedal or flip-flop on gun safety since entering the 2022 gubernatorial race.

O'Rourke has said that he still supports a mandatory buyback program for assault weapons — a position he came to after an August 2019 massacre at an El Paso Walmart that killed 23, followed just weeks later by another mass shooting, in Midland-Odessa, that left eight dead including the shooter. Both were carried out by gunmen wielding semi-automatic rifles.

And on Monday, at a rally in Amarillo, O'Rourke went after Gov. Greg Abbott directly over the issue of permitless carry. Under a new law signed by the governor earlier this year, Texans no longer need a license — or a background check or any sort of training — to carry a handgun in public.

"Whatever he might say, this governor really does not trust law enforcement," the Democrat told a crowd of several hundred people.

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The Texas sheriffs and police chiefs who opposed the permitless carry bill had, he noted, testified that over the past five years they denied some 37,000 applications for licenses to carry a handgun, after deeming the applicants too great a threat to their communities. That's to say nothing of the people who didn't bother to apply, because they knew they couldn't pass the background check, he added.

"Well, now," O'Rourke continued, "...violent criminals — at a time of rising violent crime — are in no way checked through that license-to-carry program."

If elected, he said, he'll seek to repeal the permitless carry law — a lofty goal, given that Republicans are likely to retain control of the Texas Legislature. But it's also a clear-sighted statement of purpose.

Republicans, needless to say, have taken notice — and even more strikingly, they appear to be playing defense.

"Robert Francis O'Rourke wants to disarm Texans like this woman," Abbott tweeted Monday evening, adding a link to a Fox News story about a Harris County woman who shot and killed a man during the course of an alleged attempted robbery.

"Criminals don't care what the law is; they will carry guns anyway," the Republican governor added.

Criminals don't care what the law is. Indeed. That's a profound insight, and one that should definitely serve as the basis for sound policymaking.

One wonders why we have any laws at all, much less a state penal code that includes thousands of the darn things.

One also wonders whether Abbott — a former state attorney general and Texas Supreme Court justice — is under the impression that his constituents are goldfish, and therefore unable to remember his own previous pronouncements on the subject of crime prevention.

Asked about his support of a new state law banning abortions after six weeks with no exceptions for victims of rape and incest, Abbott delivered this platitude: "Rape is a crime, and Texas will work tirelessly to make sure we eliminate all rapists from the streets of Texas by aggressively going out and arresting them and prosecuting them and getting them off the streets. So goal No. 1 in the state of Texas is to eliminate rape."

Basically, Abbott is for law and order and the rights of crime victims except when he isn't.

The conversation O'Rourke is insisting on, and compelling Abbott to engage with, is one that many Texans have long been hoping for.

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This is, as noted, a generally gun-friendly state. But in recent years, Republicans have passed a number of far-right priorities, including permitless carry, that are opposed by a majority of Texans, according to public polls.

Meanwhile, almost all gun-safety proposals filed in recent legislative sessions have fizzled ignominiously, even as gun violence continues to end lives and traumatize communities.

On Sunday, for example, a gunman opened fire on a crowd of mourners who had gathered in Baytown for a vigil. One young mother of a special needs child was killed and 13 others were injured. The vigil was in memory of another recent murder victim. While there's not necessarily a direct line between state laws and such terrors, it would be absurd to assume they have no connection whatsoever.

Or consider the tragedy last month in Lubbock, in which Chad Read, a 54-year-old father of three, was shot to death by his ex-wife's boyfriend, Kyle Carruth, after arriving at her house to pick up his son for a court-ordered visit. Carruth has not been charged in conjunction with the killing, which his defense lawyer has called "a justifiable homicide."

The attorney general's office is investigating. But in the meantime, video of the episode, released by Read's widow, depicts a bleak reality. An altercation that could have ended in angry words instead ended in death, because one man had ready access to a deadly weapon and no qualms about using it, even though he had no need to do so.

We may be used to this grim status quo, but it's more radical than anything O'Rourke is proposing. Many forget that President Bill Clinton signed an assault weapons ban into law in 1994, though it lapsed a decade later. And while polls show O'Rourke trailing Abbott, the crowds turning out for the former congressman in places like Amarillo and Lubbock explain why the governor seems a bit uneasy.

"We trust law enforcement; we want to see greater public safety; and we want to make sure that we protect the Second Amendment as well as protecting the lives of the people in our lives," O'Rourke said, at the Amarillo event. "We can do that; we are Texans."

It's bracing to hear such candor—and confidence—from a statewide candidate.

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# # #

Greg Abbott News

Governor Abbott Announces Additional Funding For Operation Lone Star
WBAP

Texas Governor Greg Abbott announced on Monday that his Public Safety Office will award an additional $38.4 million for law enforcement, jail operations, and court administration activities in direct support of Operation Lone Star.

The Governor's PSO has awarded $74.8 million in OLS funds to cities and counties in proximity to the Texas-Mexico border since the operation was launched in March 2021.

"From deterring illegal immigration, to preventing the smuggling of drugs and weapons, to curtailing human trafficking, the deployment of resources and personnel needed to arrest and jail criminals along the border is imperative to our comprehensive border security strategy under Operation Lone Star," said Governor Abbott. "This additional funding will strengthen our response to the border crisis and ensure our law enforcement and local partners have the resources they need to keep our communities safe in the federal government's absence."

The additional funding includes $19.5 million for specialized law enforcement equipment and supplies, $16 million for additional overtime, $1.9 million for construction of regional emergency communication radio towers, and $800,000 for travel costs associated with non-border counties providing law enforcement assistance to border disaster-declared counties.

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Abbott Adds $38M In Operation Lone Star Funding At Texas-Mexico Border
By Andrew Schnitker and Russell Falcon
KXAN

Gov. Greg Abbott's office announced another $38 million for Operation Lone Star on the Southern border.

The governor and other leaders were at the border this weekend to observe wall construction the state started.

During a press conference at the border, the governor claimed uncontrolled illegal immigration at the border has resulted in more than 1.2 million people being apprehended. Abbott said people aren't only illegally immigrating from Mexico but are using the Texas border to get in from several countries across the globe, including China and Russia.

The new allotment includes $19.5 million for special equipment; $16 million for additional overtime and pay, including for court personnel; and some $800,000 for travel costs from non-border counties to send personnel to the border.

The governor's public safety office has awarded $74.8 million in funds to cities and counties near the Texas-Mexico border since the operation launched in March 2021.

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“From deterring illegal immigration, to preventing the smuggling of drugs and weapons, to curtailing human trafficking, the deployment of resources and personnel needed to arrest and jail criminals along the border is imperative to our comprehensive border security strategy under Operation Lone Star,” Abbott said in a statement.

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Texas Governor's Decision: Whether To Pardon George Floyd
By Paul J. Weber
Washington Post

Doling out pardons is a holiday tradition for Texas Gov. Greg Abbott, who around every Christmas grants them to a handful of ordinary citizens, typically for minor offenses committed years or decades ago.

But one name stands out on his desk: George Floyd.

Abbott has not said whether he will posthumously pardon Floyd this year for a 2004 drug arrest in Houston by a former officer whose police work is no longer trusted by prosecutors. Texas’ parole board — stacked with Abbott appointees — unanimously recommended a pardon for Floyd in October.

Since then, the two-term Republican governor, who is up for reelection in 2022, has given no indication of whether he will grant what would be only the second posthumous pardon in Texas history. Floyd, who was Black, spent much of his life in Houston before moving to Minnesota, where his death under the knee of a white police officer last year led to a U.S. reckoning on race and policing.

“It doesn’t matter who you think George Floyd was, or what you think he stood for or didn’t stand for,” said Allison Mathis, a public defender in Houston who submitted Floyd’s pardon application. “What matters is he didn’t do this. It’s important for the governor to correct the record to show he didn’t do this.”

A spokeswoman for Abbott did not respond to requests for comment.

Pardons restore the rights of the convicted and forgive them in the eyes of the law. Floyd’s family and supporters said a posthumous pardon for him in Texas would show a commitment to accountability.

In February 2004, Floyd was arrested in Houston for selling $10 worth of crack in a police sting. He pleaded guilty to a drug charge and served 10 months in prison.

His case happened to be among dozens that prosecutors revisited in the fallout over a deadly drug raid in 2019 that resulted in murder charges against an officer, Gerald Goines, who is no longer with the Houston force. Prosecutors say Goines lied to obtain a search warrant in the 2019 raid that left a husband and wife dead, and the office of Harris County District Attorney Kim Ogg has since dismissed more than 160 drug convictions tied to Goines.

Goines has pleaded not guilty and his attorneys accuse Ogg of launching the review for political gain.

Abbott has several primary challengers from the far right, and his ongoing silence about a potential pardon for Floyd has raised questions by Mathis and others over whether political calculations are at play. His office has not responded to those charges.

Abbott attended Floyd’s memorial service last year in Houston, where he met with the family and floated the idea of a “George Floyd Act” that would take aim at police brutality. But Abbott never publicly supported such

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a measure months later when lawmakers returned to the Capitol, where Republicans instead made police funding a priority.

State Sen. Royce West, a Democrat who carried the "George Floyd Act" in the Senate, said he understands the politics if Abbott was waiting until after the GOP primary elections in March. But he said the governor should act on the recommendation.

"As he's always said, he is a law and order governor," West said. "And this would be following the law."

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Administration News

Lt. Gov. Dan Patrick: Biden Should Be Addressing The Country On The Border Crisis
Fox News

Dan Patrick, the lieutenant governor of Texas, told Fox News' "The Ingraham Angle" Monday that President Biden ought to approach the crisis playing out on the southern border in the same forum he designated to address the American people on the omicron variant.

DAN PATRICK: *"Jason [Chaffetz, the guest host], they [the Biden administration] would be lying to say that [the border is not a crisis] or clueless, and I don't believe they're clueless. This is a plan that they set about to let millions of people invade our country. They don't care who they are, including terrorists. You know, tomorrow night the president's going to address the nation on omicron, what he should be addressing the nation is on an issue as serious as the border."*

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State News

Texas Law Allows Residents' Sensitive Personal Information To Be Exposed On County Websites
By Carolina Cuellar
Texas Public Radio

For more than a decade, some Texas county clerks' offices have left thousands of unredacted social security numbers online — exposing people to COVID relief fund theft and other identity crimes. County clerks never told people they were exposed, and the state government hasn't prioritized protecting this crucial piece of their personal information.

Even county clerks are at risk.

Hidalgo County Clerk Arturo Guajardo Jr. waited to see the printed screenshot of a document found on his department's public records website — which anyone can access.

"Let me see it. Are you sure it's mine?," he said. Unbeknownst to him, his own office had uploaded a document without redacting his social security number. Texas Public Radio had previously contacted Guajardo to notify him of the exposure.

"I remember you telling me that. Wow, that is my number," he said in disbelief after looking at the document. He laughed. "I'm filling out the [redaction request] form right after this," he said.

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Since 2007, the state government no longer allows social security numbers on certain documents and must redact this information if they receive a redaction request. State law further allows county clerks to review and redact older records, many of which contain unredacted social security numbers. But they aren't required to do so. And many do not, alarming privacy advocates.

"So very problematic," said Emory Roane, the Policy Counsel with Privacy Rights Clearinghouse, as he shook his head and sighed. "Very, very alarming."

Social security numbers should be kept confidential because they're unique and associated with a person since birth, Roan said. They're used throughout peoples' lives for things like loans, medical paperwork and, more recently, obtaining COVID-19 relief funds.

Criminals can use this identifier along with other basic pieces of information to commit identity crimes such as financial, medical or benefit fraud.

"If we have a dataset right now that has people's social security numbers publicly available, that is an enormous risk to all of those Texans that are included in that information," said Roane.

These numbers are on public records that residents are required to file with their county clerk's office.

The availability of social security numbers is problematic for the state's residents, and county clerks should allocate time and resources to solve this issue, according to State Sen. Juan "Chuy" Hinojosa of McAllen.

"It is within their domain. They've been entrusted with the information. They need to f****** deal with it," he said.

Currently, counties are only legally obligated to provide redaction request forms to people who want their social security numbers removed from public view. However, they aren't responsible for notifying those whose numbers are on county websites.

While some counties have taken action, including one that agreed to pull the numbers after TPR showed them their vulnerability, others still refuse to do so even after TPR reached out.

In 2020, Texas ranked among the top states for identity theft, according to the Federal Trade Commission 2020 Data Book. That year, they received almost 135,000 identity thefts reports from Texas.

Access to such information can lead to a myriad of crimes with a long-lasting impact. In 2020, according to the FTC, loan and lease fraud were among the most common forms of fraud in Texas. While the FTC does not have estimates on how much money was lost solely to identity theft at a state level, in 2020, they reported more than $200 million in fraud losses in Texas, of which identity theft was by far the most common.

A 2007 law changes accountability for county clerks

Most Texans could face legal penalties for disclosing a social security number, but a 2007 change in state law exempts county clerks from criminal liability for doing just that.

Living peoples' social security numbers had been deemed confidential under a 2005 amendment to an existing Texas law. Then-Texas Attorney General Greg Abbott reinforced this point in a 2007 opinion which states: "Texans have a legitimate expectation that their SSNs will remain confidential."

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But county clerks claimed that redacting old documents required too much work and money which “halted business and commerce.”

Abbott walked back his stance while the Texas legislature amended the law to absolve county clerks.

As of this 2007 amendment, county clerks are not liable for providing documents that contain unredacted social security numbers.

While Abbott, now governor, expressed his support in favor of social security number confidentiality, he still has not addressed the problem. His office did not respond to multiple requests for comment.

Another 2007 amendment also allowed for social security number redaction requests and prohibited social security numbers on certain document types. Now, forms may require only limited disclosure of a few social security number digits, but thousands of documents already filed in 2007 were not retroactively redacted.

Privacy protection varies by county

Across Texas, there are rampant inconsistencies in county clerks’ handling of social security numbers.

Texas Public Radio reached out to 16 Texas counties with the same questions about their social security number privacy policies. TPR chose counties based on their public records databases’ security levels and made sure to include the six most populated counties. Eight responded.

While some counties have taken the initiative of automatically redacting past records with computer software, other county clerks say they will not redact them without a request from the person whose number is exposed.

However, those county clerks haven’t alerted citizens whose numbers are exposed or have to take steps to protect themselves.

“You would expect that when a government agency exposes information of this level of sensitivity, the bare minimum would require notification to the individuals,” said Roane, the privacy advocate.

Rachel German, an instructor in the Masters of Security and Privacy Program at the University of Texas School of Information, said this is probably a case of limited resources and county clerks’ duty to make these documents publicly available.

But, she said, that shouldn't keep them from protecting people’s social security numbers.

“I do believe that there's an obligation for them to take it down once it's been notified to them that this information is out there,” said German.

Some counties have prioritized protecting this information. Others haven’t.

Fort Bend County purchased software to automatically redact personal identifiers like social security numbers even after the law was amended to absolve them from criminal liability.

“Although we follow [2007 law], we have been proactive in automated redaction of all our public records containing SSNs,” said Laura Richard, Fort Bend County Clerk, in an email.

Other counties like Bexar County did the same. “We didn't think it was a great idea to wait for people to let us know to redact them if we knew what documents had social security numbers,” said Raquel Montalvo, Senior Recording Division Chief.

However, Bexar County did not address all social security number exposures. Once TPR reached out to the Bexar County Clerk’s office, senior recording division chief Raquel Montalvo said they’d go back and redact the documents they missed.

Unlike Fort Bend or Bexar County, Brazos County interprets the law as to not allow automatic redactions of social security numbers on any documents. “There is not authorization per statute for us to automatically redact Social Security Numbers,” said Karen McQueen, Brazos County Clerk, in an email.

On top of the likelihood that someone might not know they’re vulnerable, the form they’re required to submit can itself be a liability.

The Denton County Clerk’s office had social security number redaction requests posted online as recently as 2018, some of them with the requestor’s social security number visible.

TPR contacted the Denton County Clerk’s office and they removed all redaction requests with unredacted social security numbers from the database. However, Juli Luke, the Denton County Clerk, did not express any intention to redact other documents with exposures.

The Hidalgo County Clerk’s office, whose county clerk’s own social security number was displayed, said they had no immediate plans to redact the numbers retroactively.

“The county clerk and a district clerk, by law, are exempt from having to redact them,” said Annette Muniz, Hidalgo County Clerk's Office chief deputy.

Muniz said the office will only redact documents with an official request from the filer. “When individuals come to us and tell us that something's been filed with their social security number, depending on what it is, we can keep it from view from the public, but they would have to let us know,” she said.

But, according to Muniz, it’s too resource-intensive to notify people who don’t know their social security number is visible. “For us to go out and inform them that would be really, really difficult and really costly to the county,” Muniz said.

On their website, the Attorney General of Texas lists ways to protect against identity theft, including not sharing personal information over the internet “unless you have a trusted relationship with the requestor and you initiated the contact.”

TPR sent 10 emails over two months requesting an interview and notifying the Attorney General’s office that social security numbers were on Texas county government websites without the filers’ knowledge. In an email, they responded by referencing the relevant Texas government codes.

Texas state laws
Texas privacy protection laws are lacking compared to other states.

For example, California does not exempt government entities from legal responsibility if social security numbers are unknowingly exposed. California also allows consumers to contact businesses about what personal information they may have.

In cases of breaches — where someone who is unauthorized accesses sensitive personal information — mandatory disclosure laws require the attacked entity to notify those whose data is compromised.

Texas was one of the last states to pass data breach notification laws and this protection does not extend to victims of government agency breaches.

“There's no real obligation on the government agency that is exposing this information currently to notify individuals,” Emory Roane said.

States with strong privacy protection laws like California include government agencies in legislation like breach notification laws.

“You would expect that when a government agency exposes information of this level of sensitivity, the bare minimum would require notification to the individuals,” Roane said, “we would certainly expect that the attorney general would then publish that disclosure that exposure on their website along with any other data breaches that they've received from businesses.”

Finding Solutions
German, the security and privacy professor, said the Texas Legislature should address the issue of unredacted social security numbers.

“It needs to come from above, in the Texas government, to require that they make this a priority. That [county governments] put the man power towards this when it's discovered and reported to them,“ she said.

However, state lawmakers disagree it’s their responsibility.

“The counties have to make this a priority. I can't believe that their excuse is gonna be that we don't have the resources,” Senator Hinojosa said.

He said the hundreds of millions in COVID relief money Hidalgo county received should go towards fixing this exposure. If county clerks are looking to remedy the situation, they need to contact legislators. “If they want any adjustment, change the law, they have to come and ask us. And they have not requested any type of change,” he said.

Hidalgo County clerk Guajardo Jr. insists that lack of funding and state lawmakers’ support hinders his department from fixing what he knows is a problem.

“I am in complete agreement that we could do more to protect these social security numbers,” Guajardo said.

However, the state government doesn’t enforce or provide resources for county clerks to improve the security of their records.

Guajardo said the county clerk’s office only receives a general fund from the county that hasn’t changed in about 10 or 15 years. Their only financing option for any initiative outside their allocated funds is by adding filing fees to every document requested from the department.

In other words, the best a county clerk with insufficient funds could do is lobby for a bill that allows them to charge extra from people requesting public records and Guajardo has little hope the legislature would agree to an increase in fees.

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“What we would need is for the state legislature or U.S. Congress to say, ‘We want you now to redact anything that has a social security number on it, and here's how you're going to pay for it.’” he said, “And then it would fall into place perfectly.”

After TPR showed Guajardo that his social security number is on the website he’s responsible for, he said he’s working with Kofile, the company that runs the website, to lessen the accessibility of social security numbers in the online database. But they are still not redacting documents without official requests or informing those who are exposed.

If you’re concerned your social security number is compromised, reach out to the county clerk’s office where your documents are filed to see if your social security number is redacted.

If your sensitive personal information is publicly available, you may request a redaction through the corresponding county clerk and, in most cases, they must redact your social security number.

If your identity is stolen, the Attorney General of Texas’ website contains resources on what to do if you’re an identity theft victim.

You can also reach out to the Identity Theft Resource Center for help on how to deal with and recover from identity theft.

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Education

Gov. Abbott Directs $123M In Federal Covid-19 Relief Funding Toward Education In Texas
By Megan Menchaca
Austin American Statesman

Gov. Greg Abbott said Monday that Texas will provide $123.3 million in federal COVID-19 relief money for education.

The final round of money from the relief fund came through the Coronavirus Response and Relief Supplemental Appropriations Act, a bill that includes nearly $82 billion in aid for education.

Congress initially established the Governor's Emergency Education Relief Fund under the Coronavirus Aid, Relief, and Economic Security Act in March 2020 to provide local educational agencies and higher education institutions with emergency assistance in response to the pandemic.

Through the relief fund, Texas has invested more than $362 million for higher education and $67.5 million for K-12 public education since the beginning of the pandemic. The state has previously allocated the governor’s relief money for items such as emergency student support, improving distance education course offerings, and information security and accessibility.

This round of funding includes $20 million for the Supplemental Special Education Services program, which provides grants to families of eligible students served by special education. It also includes $10 million for charter school grants to expand the number of charter schools in the state.

“The State of Texas remains committed to students and their success in our education systems," Gov. Greg Abbott said.

“The State of Texas remains committed to students and their success in our education systems — that includes ensuring parents have an option to send their kids to a high-quality charter school and providing direct support to families with children who have special needs,” Abbott said in a news release.

Texas also is providing $25 million to nurses for loan repayment, financial aid, and nursing education and $17.5 million for credentials for digital skills, data analytics and programs for front-line health care workers.

Other funding includes more than $30 million to improve student enrollment, retention and credential completion and $12.5 million for student financial aid programs, including transfer grants and the Texas Leadership Scholarship Program.

“In addition to Texas’ commitment to student success programs, this funding will help ensure that students of all ages will not only enter into a higher education program, but they will leave as quickly as possible with a high-value degree or credential,” Abbott said.

The remaining funding will support work to improve the state’s educational and workforce data infrastructure ($5 million) and Commercial Driver License training and repayment ($3 million).

“We have also quickly become a leader in workforce education, reskilling, and upskilling, and this additional funding will ensure a talent-strong Texas that continues to create and import jobs for decades to come,” Abbott said.

Texas Education Commissioner Mike Morath said in the news release that Abbott and legislative leaders have made public education a top priority even as COVID-19 created various challenges for schools.

"For some of our most at-risk students, this significant new round of funding will prioritize getting families across Texas direct access to special education and other targeted supplemental services to support their children’s varied educational needs,” Morath said.

Harrison Keller, Texas commissioner of higher education, said state leaders recognized during the pandemic that investments in higher education are essential for Texas’ economic recovery and future competitiveness.

“This commitment reflects a vision that has allowed Texas to become one of only a few states that prioritized discretionary federal stimulus funds for higher education,” Keller said. “We are grateful for these strategic investments in building a talent strong Texas.”

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Business/Economy

Musk Teases Huge Job Number At Austin-Area Tesla Factory
By Jaclyn Ramkissoon and Kathryn Hardison
KXAN

Travis County’s Tesla gigafactory, which is expected to start production any day now, could have a bigger economic impact on the Austin area than originally thought, Austin Business Journal reports.

Tesla headquarters officially move to Austin

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ABJ reported CEO Elon Musk wrote on Twitter last week the factory will be a $10 billion-plus investment "over time" and will create at least 20,000 direct jobs and 100,000 indirect jobs.

ABJ said if those plans play out, that could make the electric automaker one of the largest, if not the largest, private-sector employer in the Austin area. ABJ reports according to its records, as of July, popular grocer H-E-B held the No. 1 spot with roughly 19,000 workers.

Tesla intends to produce its Cybertruck, Model 3, Model Y SUV and Semi tractor-trailer at the factory.

Tesla production plant on track to finish on time, state filings suggest
ABJ spoke to several analysts who cover the company; they said the gigafactory is critical to the company's production plans. One of them even stated, "Austin will be the core production artery for Tesla by 2023."

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Immigration/Border Security

DHS To Close Some Gaps In Border Wall In Ongoing Effort To Clean Up Trump-Era Projects
By Priscilla Alvarez
KVIA

The Department of Homeland Security plans to close small gaps in the border wall, make adjustments to prevent flooding and complete prior construction of access roads, the department announced Monday.

In one of his first actions in office, President Joe Biden ordered a pause on wall construction and called for a review of projects and funds. Over the course of the year, the administration has terminated border wall contracts and gradually returned land to property owners that had been seized for barrier construction.

But as a result of the review, DHS has determined there is some work that must be completed.

Those activities include completing/installing drainage to prevent flooding, disposing of residual materials that are not required to complete work, and closing "small gaps that remain open from prior construction activities and remediating incomplete gates."

The work will be done in the US Border Patrol's San Diego, El Centro, Yuma, Tucson, El Paso, and Del Rio sectors. The work the administration will undertake is focused on addressing life, safety, environmental, and remediation requirements, the department said.

DHS has previously announced efforts to address unfinished projects, like repairs of border barriers in San Diego and in the Rio Grande Valley.

"The type of work that is required will vary by Sector and will be executed with available funding in priority locations identified by CBP," DHS said in a statement. "The Administration continues to call on Congress to cancel remaining border wall funding and instead fund smarter border security measures that are proven to be more effective at improving safety and security at the border."

DHS is using already-appropriated funds to address environmental issues stemming from the Trump administration's wall construction and for construction clean up.

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The Biden administration's decision to halt construction has attracted criticism from Republicans, including Texas Gov. Greg Abbott who announced an initiative this year to build barriers along the Texas-Mexico border. Over the weekend, Abbott unveiled construction of a border wall underway in south Texas, while blaming the Biden administration for allegedly failing to "enforce the immigration laws."

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Gov. Abbott Asked Texas Landowners To Report Damage Caused By Migration. Here Are The Results So Far.
By Anastasiya Bolton
KENS

Texas landowners near the border with Mexico have been vocal for a while about the damages migration causes.

Broken fences, rammed gates and injury to livestock are common as migrants try to circumvent Border Patrol checkpoints and get north, several law enforcement officials along the border told KENS 5.

In July, Governor Greg Abbott urged Texas landowners to complete a self-reporting damage survey to help estimate the costs, KENS 5 obtained the results of the survey so far.

"It's really unbelievable," said Susan Kibbe, Executive Director of South Texans Property Rights Association (STPRA). "The amount of damage especially in some areas just because of where these ranchers are, sustain hundreds of thousands of dollars' worth of damage."

Kibbe told KENS 5, the association's first landowner meeting was in 2005 to talk border security and immigration reform.

"It hasn't been resolved, hasn't been solved," Kibbe told KENS 5. "And now there is no border security. So, you know, we're trying to get the word out and do the best we can to make a difference."

So far, landowners and the counties have been paying the cost of migration.

"That's a federal issue," Kibbe said. "That's been back and forth over the past decade."

"These smugglers drive through fences," she added, "ram gates, cut locks. Those fences are for a purpose that's [to] separate cattle. So, when they do that, and go through multiple properties, then you have livestock exposed to sometimes public roads, mixed, where a whole year's breeding season is diminished. It hits the pocketbook."

Kibbe told KENS 5 the association didn't have current estimates of landowner damages.

In July, Governor Abbott asked the landowners to help get that figure, and "inform the state's ongoing efforts to secure the border," as the press release stated.

Through a Public Information Request, KENS 5 obtained the results of the survey from July through November 2021.

The Excel spread sheets KENS 5 was provided, showed the state received 53 reports from owners and renters in multiple counties, including Maverick, Travis, Hidalgo counties, as well as Val Verde, Starr, Live Oak, Lavaca, Jackson and Webb.

Entries included information that some damaged structures were homes, some businesses. Some structures were uninhabitable, others, people were still able to occupy.

In a recent interview with KENS 5's Niccole Caan, Abbott said the survey accomplishes several things.

"It provides us insight and information about the different ways that different communities have been harmed," Abbott said. "We are aggregating all of those costs, and we're submitting those costs to Washington D.C. because the local communities had to bear those costs, but they shouldn't have to pay for them. It should be the federal government that pays for those costs."

The survey results obtained by KENS 5 so far don't show a complete picture of what landowners are dealing with. For example, it appears not everyone provided damage estimates when filling out their forms.

The individual reported estimated uninsured damages ranging from 3,000 to 100,000 dollars.

The estimates provide a window, though, into some of the daily challenges of border communities.

"This is just inhumane all the way around to all of us," Kibbe told KENS 5. "To the migrants, to landowners, to the citizens of this nation. And so, we just need somebody to our federal government to step up to the plate and do the job."

The border survey is still available for Texans to report damage related to border crisis.

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Transportation

In Texas Supreme Court Case, State Argues That Dallas-Houston Bullet Train Developer Can't Use Eminent Domain
By Alexa Ura
Texas Tribune

The Texas attorney general's office has put its weight behind a landowner's case against the companies developing a controversial Dallas-Houston bullet train, arguing they can't force people to sell parcels needed for the high-speed rail project.

Weighing in on the matter at the invitation of the Texas Supreme Court, the attorney general's office offered the latest twist in the nearly decade-long fight over a 240-mile line that would connect Dallas and Houston. While the project has picked up support from leaders of urban areas, it's encountered hard resistance from residents of the rural counties on its proposed path.

One of those residents, Leon County landowner James Miles, sued Texas Central after the private company sought permission to survey his 600-acre property in 2015 as part of its efforts to examine the land for the project. Miles asked the courts to declare that the company did not have the right to enter his property because it does not have the eminent domain authority granted to railroad companies.

He won at a trial court, but the legal dispute reached the Texas Supreme Court after a state appellate court in Corpus Christi sided with Texas Central and a related company.

In a legal brief filed with the Texas Supreme Court on Friday, deputies for Texas Attorney General Ken Paxton argued the high court should reverse that appellate decision and rule in Miles' favor because the companies fall short of the Texas Constitution's definition of a rail company.

"The [companies] may only make preliminary examinations and surveys of private landowners' properties for the purpose of constructing and operating a bullet train if they are either railroad companies or interurban electric railway companies," the state wrote in its brief. "In the State's view, the [companies] are neither."

That leaves them with "no authority to enter, examine, survey or condemn Miles' land," the state wrote.

The state's legal brief turns largely on the meaning of a portion of the state Transportation Code that gives private entities the ability to exercise eminent domain if they are "operating a railroad." Reading at times as a semantic study in how to interpret tenses and grammar in state statute, the state said the companies could not be classified in that way because they "currently own no trains and have constructed no tracks or train depots."

"The rules of grammar confirm that the Respondents are not railroad companies," the AG's office argued.

In the litigation, the companies have contended they meet that definition under the Transportation Code because they have performed the preliminary activities needed to construct a railroad, creating a reasonable probability that they would operate a railroad in the future.

The state also disagreed with the companies on this point, saying they could not show a likelihood of procuring sufficient financing to complete the project.

Texas Central representatives did not immediately respond to a request for comment. The company has previously promised to fund the project — at a cost around $20 billion — with the support of private investors and without public funds.

Company executives have previously said they would prefer not to use eminent domain "at all" and would rather work out amicable sales agreements for the thousands of parcels needed to construct the project across 10 counties. The company has also vowed to minimize how much the line will impact the land around it.

The high-speed rail project has been mired by setbacks and controversy for the better part of a decade. In both courthouses and at the Capitol, opponents have zeroed in on Texas Central's claim that state law gives it the right to use eminent domain and force unwilling owners to sell their land.

The push for the Dallas-Houston bullet train has been built on its promise of establishing a line on which trains could run at speeds of up to 205 mph to cut a trip that would normally take four hours by car down to 90 minutes.

But securing the land along its proposed route has proven a challenge. In 2020, Texas Central said it had secured more than 600 parcels covering just about 40% of the lots — not the land — it needs for the project. Given fierce opposition to the project in rural areas, eminent domain is seen as likely to become a necessity at some point.

In Leon County, one proposal would bisect Miles' 600 acres with a 100-foot right-of-way, according to the legal filings.

On Monday, opponents of the rail described the attorney general's brief as a "strong show of support for Texas private property rights."

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"The brief filed by the [attorney general's office] is clear that the past activities, corporate structure and financial state of the project coupled with the very high level of uncertainty that the project would ever even be built does not meet a threshold that would support Texas Central's claim that it has eminent domain authority," the group Texans Against High-Speed Rail said in a press release.

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Opinion/Editorial

Gov. Greg Abbott Building The Border Wall Back Better
By Cal Thomas
Washington Times

During a debate with George H.W. Bush in New Hampshire in 1980, the moderator asked that Ronald Reagan's microphone be "turned off for the moment." Reagan was angry and said something that might be applied to the failure of the Biden administration to use materials lying unused in Texas paid for during the Trump administration to construct the border wall. Said Reagan, "I paid for this microphone." The clear implication was that since he paid for it, he ought to be able to use it.

Gov. Greg Abbott of Texas is making a similar argument. He believes the Biden administration, either to spite former President Donald Trump or because it is not interested in securing the border, refuses to use materials already paid for by taxpayers to resume construction of the wall. As a result, Mr. Abbott has ordered that construction resume, using state taxpayer funds and new materials.

More than $100 million of taxpayer money was spent on materials for the border wall during the Trump administration. They should be made available to Mr. Abbott, but the Biden administration won't allow it. Mr. Biden canceled contracts for its construction after entering office last January.

The Texas Department of Transportation is set to pay nearly $25 million to construct a nearly two-mile concrete barrier along the border in Eagle Pass. The Texas Tribune reports: "Under the project, the state has also contracted for a temporary fence near the right of way along State Loop 480, which the Department of Public Safety has designated a high-traffic area for illegal immigration."

Officers from the Texas Department of Public Safety are patrolling parts of the border where federal border control officers cannot be found. Immigrants who cross are being charged with trespassing and put in jail.

Sen. Joe Manchin is a weak gate guard on Build Back Better socialism
Mr. Abbott has said: "The Biden administration has abandoned its responsibilities to secure the border, and Texans are suffering as a result. The problems along the border are only getting worse due to President Biden's inaction. Property is being destroyed, deadly drugs and illegal weapons are being smuggled into communities throughout the state, law enforcement is having to redirect their resources, and county judges and mayors face skyrocketing expenses. Texas is doing more than any state has ever done to protect the border, but it is clear that more is needed. In the Biden administration's absence, Texas is stepping up to get the job done by building the border wall. Through this comprehensive public safety effort, we will secure the border, slow the influx of unlawful immigrants, and restore order in our border communities."

As some media outlets (mostly Fox) show pictures of migrants illegally entering the country, and new reports find some are coming from other than Central American countries, opinion appears to be shifting. A Fox poll last spring found an increase in the portion of respondents saying the migrants "hurt" the country, and that

attitude is seen across the board: “independents (+21), Republicans (+20), whites (+18), men (+16), women (+14), Blacks (+11) and Democrats (+8) are more likely to think immigrants hurt rather than help.”

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Greg Abbott News

Governor Abbott Announces Additional Funding For Operation Lone Star
WBAP

Texas Governor Greg Abbott announced on Monday that his Public Safety Office will award an additional $38.4 million for law enforcement, jail operations, and court administration activities in direct support of Operation Lone Star.

The Governor's PSO has awarded $74.8 million in OLS funds to cities and counties in proximity to the Texas-Mexico border since the operation was launched in March 2021.

"From deterring illegal immigration, to preventing the smuggling of drugs and weapons, to curtailing human trafficking, the deployment of resources and personnel needed to arrest and jail criminals along the border is imperative to our comprehensive border security strategy under Operation Lone Star," said Governor Abbott. "This additional funding will strengthen our response to the border crisis and ensure our law enforcement and local partners have the resources they need to keep our communities safe in the federal government's absence."

The additional funding includes $19.5 million for specialized law enforcement equipment and supplies, $16 million for additional overtime, $1.9 million for construction of regional emergency communication radio towers, and $800,000 for travel costs associated with non-border counties providing law enforcement assistance to border disaster-declared counties.

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Abbott Adds $38M In Operation Lone Star Funding At Texas-Mexico Border
By Andrew Schnitker and Russell Falcon
KXAN

Gov. Greg Abbott's office announced another $38 million for Operation Lone Star on the Southern border.

The governor and other leaders were at the border this weekend to observe wall construction the state started.

During a press conference at the border, the governor claimed uncontrolled illegal immigration at the border has resulted in more than 1.2 million people being apprehended. Abbott said people aren't only illegally immigrating from Mexico but are using the Texas border to get in from several countries across the globe, including China and Russia.

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The new allotment includes $19.5 million for special equipment; $16 million for additional overtime and pay, including for court personnel; and some $800,000 for travel costs from non-border counties to send personnel to the border.

The governor's public safety office has awarded $74.8 million in funds to cities and counties near the Texas-Mexico border since the operation launched in March 2021.

"From deterring illegal immigration, to preventing the smuggling of drugs and weapons, to curtailing human trafficking, the deployment of resources and personnel needed to arrest and jail criminals along the border is imperative to our comprehensive border security strategy under Operation Lone Star," Abbott said in a statement.

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Texas Governor's Decision: Whether To Pardon George Floyd
By Paul J. Weber
Washington Post

Doling out pardons is a holiday tradition for Texas Gov. Greg Abbott, who around every Christmas grants them to a handful of ordinary citizens, typically for minor offenses committed years or decades ago.

But one name stands out on his desk: George Floyd.

Abbott has not said whether he will posthumously pardon Floyd this year for a 2004 drug arrest in Houston by a former officer whose police work is no longer trusted by prosecutors. Texas' parole board — stacked with Abbott appointees — unanimously recommended a pardon for Floyd in October.

Since then, the two-term Republican governor, who is up for reelection in 2022, has given no indication of whether he will grant what would be only the second posthumous pardon in Texas history. Floyd, who was Black, spent much of his life in Houston before moving to Minnesota, where his death under the knee of a white police officer last year led to a U.S. reckoning on race and policing.

"It doesn't matter who you think George Floyd was, or what you think he stood for or didn't stand for," said Allison Mathis, a public defender in Houston who submitted Floyd's pardon application. "What matters is he didn't do this. It's important for the governor to correct the record to show he didn't do this."

A spokeswoman for Abbott did not respond to requests for comment.

Pardons restore the rights of the convicted and forgive them in the eyes of the law. Floyd's family and supporters said a posthumous pardon for him in Texas would show a commitment to accountability.

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In February 2004, Floyd was arrested in Houston for selling $10 worth of crack in a police sting. He pleaded guilty to a drug charge and served 10 months in prison.

His case happened to be among dozens that prosecutors revisited in the fallout over a deadly drug raid in 2019 that resulted in murder charges against an officer, Gerald Goines, who is no longer with the Houston force. Prosecutors say Goines lied to obtain a search warrant in the 2019 raid that left a husband and wife dead, and the office of Harris County District Attorney Kim Ogg has since dismissed more than 160 drug convictions tied to Goines.

Goines has pleaded not guilty and his attorneys accuse Ogg of launching the review for political gain.

Abbott has several primary challengers from the far right, and his ongoing silence about a potential pardon for Floyd has raised questions by Mathis and others over whether political calculations are at play. His office has not responded to those charges.

Abbott attended Floyd's memorial service last year in Houston, where he met with the family and floated the idea of a "George Floyd Act" that would take aim at police brutality. But Abbott never publicly supported such a measure months later when lawmakers returned to the Capitol, where Republicans instead made police funding a priority.

State Sen. Royce West, a Democrat who carried the "George Floyd Act" in the Senate, said he understands the politics if Abbott was waiting until after the GOP primary elections in March. But he said the governor should act on the recommendation.

"As he's always said, he is a law and order governor," West said. "And this would be following the law."

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Administration News

Lt. Gov. Dan Patrick: Biden Should Be Addressing The Country On The Border Crisis
Fox News

Dan Patrick, the lieutenant governor of Texas, told Fox News' "The Ingraham Angle" Monday that President Biden ought to approach the crisis playing out on the southern border in the same forum he designated to address the American people on the omicron variant.

DAN PATRICK: *"Jason [Chaffetz, the guest host], they [the Biden administration] would be lying to say that [the border is not a crisis] or clueless, and I don't believe they're clueless. This is a plan that they set about to let millions of people invade our*

country. They don't care who they are, including terrorists. You know, tomorrow night the president's going to address the nation on omicron, what he should be addressing the nation is on an issue as serious as the border."

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State News

Texas Law Allows Residents' Sensitive Personal Information To Be Exposed On County Websites
By Carolina Cuellar
Texas Public Radio

For more than a decade, some Texas county clerks' offices have left thousands of unredacted social security numbers online — exposing people to COVID relief fund theft and other identity crimes. County clerks never told people they were exposed, and the state government hasn't prioritized protecting this crucial piece of their personal information.

Even county clerks are at risk.

Hidalgo County Clerk Arturo Guajardo Jr. waited to see the printed screenshot of a document found on his department's public records website — which anyone can access.

"Let me see it. Are you sure it's mine?," he said. Unbeknownst to him, his own office had uploaded a document without redacting his social security number. Texas Public Radio had previously contacted Guajardo to notify him of the exposure.

"I remember you telling me that. Wow, that is my number," he said in disbelief after looking at the document. He laughed. "I'm filling out the [redaction request] form right after this," he said.

Since 2007, the state government no longer allows social security numbers on certain documents and must redact this information if they receive a redaction request. State law further allows county clerks to review and redact older records, many of which contain unredacted social security numbers. But they aren't required to do so. And many do not, alarming privacy advocates.

"So very problematic," said Emory Roane, the Policy Counsel with Privacy Rights Clearinghouse, as he shook his head and sighed. "Very, very alarming."

Social security numbers should be kept confidential because they're unique and associated with a person since birth, Roan said. They're used throughout peoples' lives for things like loans, medical paperwork and, more recently, obtaining COVID-19 relief funds.

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Criminals can use this identifier along with other basic pieces of information to commit identity crimes such as financial, medical or benefit fraud.

“If we have a dataset right now that has people’s social security numbers publicly available, that is an enormous risk to all of those Texans that are included in that information,” said Roane.

These numbers are on public records that residents are required to file with their county clerk's office.

The availability of social security numbers is problematic for the state’s residents, and county clerks should allocate time and resources to solve this issue, according to State Sen. Juan “Chuy” Hinojosa of McAllen.

“It is within their domain. They've been entrusted with the information. They need to f****** deal with it,” he said.

Currently, counties are only legally obligated to provide redaction request forms to people who want their social security numbers removed from public view. However, they aren’t responsible for notifying those whose numbers are on county websites.

While some counties have taken action, including one that agreed to pull the numbers after TPR showed them their vulnerability, others still refuse to do so even after TPR reached out.

In 2020, Texas ranked among the top states for identity theft, according to the Federal Trade Commission 2020 Data Book. That year, they received almost 135,000 identity thefts reports from Texas.

Access to such information can lead to a myriad of crimes with a long-lasting impact. In 2020, according to the FTC, loan and lease fraud were among the most common forms of fraud in Texas. While the FTC does not have estimates on how much money was lost solely to identity theft at a state level, in 2020, they reported more than $200 million in fraud losses in Texas, of which identity theft was by far the most common.

A 2007 law changes accountability for county clerks

Most Texans could face legal penalties for disclosing a social security number, but a 2007 change in state law exempts county clerks from criminal liability for doing just that.

Living peoples’ social security numbers had been deemed confidential under a 2005 amendment to an existing Texas law. Then-Texas Attorney General Greg Abbott reinforced this point in a 2007 opinion which states: “Texans have a legitimate expectation that their SSNs will remain confidential.”

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But county clerks claimed that redacting old documents required too much work and money which “halted business and commerce.”

Abbott walked back his stance while the Texas legislature amended the law to absolve county clerks.

As of this 2007 amendment, county clerks are not liable for providing documents that contain unredacted social security numbers.

While Abbott, now governor, expressed his support in favor of social security number confidentiality, he still has not addressed the problem. His office did not respond to multiple requests for comment.

Another 2007 amendment also allowed for social security number redaction requests and prohibited social security numbers on certain document types. Now, forms may require only limited disclosure of a few social security number digits, but thousands of documents already filed in 2007 were not retroactively redacted.

Privacy protection varies by county

Across Texas, there are rampant inconsistencies in county clerks’ handling of social security numbers.

Texas Public Radio reached out to 16 Texas counties with the same questions about their social security number privacy policies. TPR chose counties based on their public records databases’ security levels and made sure to include the six most populated counties. Eight responded.

While some counties have taken the initiative of automatically redacting past records with computer software, other county clerks say they will not redact them without a request from the person whose number is exposed.

However, those county clerks haven’t alerted citizens whose numbers are exposed or have to take steps to protect themselves.

“You would expect that when a government agency exposes information of this level of sensitivity, the bare minimum would require notification to the individuals,” said Roane, the privacy advocate.

Rachel German, an instructor in the Masters of Security and Privacy Program at the University of Texas School of Information, said this is probably a case of limited resources and county clerks’ duty to make these documents publicly available.

But, she said, that shouldn't keep them from protecting people’s social security numbers.

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“I do believe that there's an obligation for them to take it down once it's been notified to them that this information is out there,” said German.

Some counties have prioritized protecting this information. Others haven’t.

Fort Bend County purchased software to automatically redact personal identifiers like social security numbers even after the law was amended to absolve them from criminal liability.

“Although we follow [2007 law], we have been proactive in automated redaction of all our public records containing SSNs,” said Laura Richard, Fort Bend County Clerk, in an email.

Other counties like Bexar County did the same. “We didn't think it was a great idea to wait for people to let us know to redact them if we knew what documents had social security numbers,” said Raquel Montalvo, Senior Recording Division Chief.

However, Bexar County did not address all social security number exposures. Once TPR reached out to the Bexar County Clerk’s office, senior recording division chief Raquel Montalvo said they’d go back and redact the documents they missed.

Unlike Fort Bend or Bexar County, Brazos County interprets the law as to not allow automatic redactions of social security numbers on any documents. “There is not authorization per statute for us to automatically redact Social Security Numbers,” said Karen McQueen, Brazos County Clerk, in an email.

On top of the likelihood that someone might not know they’re vulnerable, the form they’re required to submit can itself be a liability.

The Denton County Clerk’s office had social security number redaction requests posted online as recently as 2018, some of them with the requestor’s social security number visible.

TPR contacted the Denton County Clerk’s office and they removed all redaction requests with unredacted social security numbers from the database. However, Juli Luke, the Denton County Clerk, did not express any intention to redact other documents with exposures.

The Hidalgo County Clerk’s office, whose county clerk’s own social security number was displayed, said they had no immediate plans to redact the numbers retroactively.

“The county clerk and a district clerk, by law, are exempt from having to redact them,” said Annette Muniz, Hidalgo County Clerk's Office chief deputy.

Muniz said the office will only redact documents with an official request from the filer. “When individuals come to us and tell us that something's been filed with their social

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security number, depending on what it is, we can keep it from view from the public, but they would have to let us know," she said.

But, according to Muniz, it's too resource-intensive to notify people who don't know their social security number is visible. "For us to go out and inform them that would be really, really difficult and really costly to the county," Muniz said.

On their website, the Attorney General of Texas lists ways to protect against identity theft, including not sharing personal information over the internet "unless you have a trusted relationship with the requestor and you initiated the contact."

TPR sent 10 emails over two months requesting an interview and notifying the Attorney General's office that social security numbers were on Texas county government websites without the filers' knowledge. In an email, they responded by referencing the relevant Texas government codes.

Texas state laws
Texas privacy protection laws are lacking compared to other states.

For example, California does not exempt government entities from legal responsibility if social security numbers are unknowingly exposed. California also allows consumers to contact businesses about what personal information they may have.

In cases of breaches — where someone who is unauthorized accesses sensitive personal information — mandatory disclosure laws require the attacked entity to notify those whose data is compromised.

Texas was one of the last states to pass data breach notification laws and this protection does not extend to victims of government agency breaches.

"There's no real obligation on the government agency that is exposing this information currently to notify individuals," Emory Roane said.

States with strong privacy protection laws like California include government agencies in legislation like breach notification laws.

"You would expect that when a government agency exposes information of this level of sensitivity, the bare minimum would require notification to the individuals," Roane said, "we would certainly expect that the attorney general would then publish that disclosure that exposure on their website along with any other data breaches that they've received from businesses."

Finding Solutions
German, the security and privacy professor, said the Texas Legislature should address the issue of unredacted social security numbers.

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“It needs to come from above, in the Texas government, to require that they make this a priority. That [county governments] put the man power towards this when it's discovered and reported to them,“ she said.

However, state lawmakers disagree it’s their responsibility.

“The counties have to make this a priority. I can't believe that their excuse is gonna be that we don't have the resources,” Senator Hinojosa said.

He said the hundreds of millions in COVID relief money Hidalgo county received should go towards fixing this exposure. If county clerks are looking to remedy the situation, they need to contact legislators. “If they want any adjustment, change the law, they have to come and ask us. And they have not requested any type of change,” he said.

Hidalgo County clerk Guajardo Jr. insists that lack of funding and state lawmakers’ support hinders his department from fixing what he knows is a problem.

“I am in complete agreement that we could do more to protect these social security numbers,” Guajardo said.

However, the state government doesn’t enforce or provide resources for county clerks to improve the security of their records.

Guajardo said the county clerk’s office only receives a general fund from the county that hasn’t changed in about 10 or 15 years. Their only financing option for any initiative outside their allocated funds is by adding filing fees to every document requested from the department.

In other words, the best a county clerk with insufficient funds could do is lobby for a bill that allows them to charge extra from people requesting public records and Guajardo has little hope the legislature would agree to an increase in fees.

“What we would need is for the state legislature or U.S. Congress to say, ‘We want you now to redact anything that has a social security number on it, and here's how you're going to pay for it.’” he said, “And then it would fall into place perfectly.”

After TPR showed Guajardo that his social security number is on the website he’s responsible for, he said he’s working with Kofile, the company that runs the website, to lessen the accessibility of social security numbers in the online database. But they are still not redacting documents without official requests or informing those who are exposed.

If you’re concerned your social security number is compromised, reach out to the county clerk’s office where your documents are filed to see if your social security number is redacted.

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If your sensitive personal information is publicly available, you may request a redaction through the corresponding county clerk and, in most cases, they must redact your social security number.

If your identity is stolen, the Attorney General of Texas' website contains resources on what to do if you're an identity theft victim.

You can also reach out to the Identity Theft Resource Center for help on how to deal with and recover from identity theft.

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Education

Gov. Abbott Directs $123M In Federal Covid-19 Relief Funding Toward Education In Texas
By Megan Menchaca
Austin American Statesman

Gov. Greg Abbott said Monday that Texas will provide $123.3 million in federal COVID-19 relief money for education.

The final round of money from the relief fund came through the Coronavirus Response and Relief Supplemental Appropriations Act, a bill that includes nearly $82 billion in aid for education.

Congress initially established the Governor's Emergency Education Relief Fund under the Coronavirus Aid, Relief, and Economic Security Act in March 2020 to provide local educational agencies and higher education institutions with emergency assistance in response to the pandemic.

Through the relief fund, Texas has invested more than $362 million for higher education and $67.5 million for K-12 public education since the beginning of the pandemic. The state has previously allocated the governor's relief money for items such as emergency student support, improving distance education course offerings, and information security and accessibility.

This round of funding includes $20 million for the Supplemental Special Education Services program, which provides grants to families of eligible students served by special education. It also includes $10 million for charter school grants to expand the number of charter schools in the state.

"The State of Texas remains committed to students and their success in our education systems," Gov. Greg Abbott said.

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“The State of Texas remains committed to students and their success in our education systems — that includes ensuring parents have an option to send their kids to a high-quality charter school and providing direct support to families with children who have special needs,” Abbott said in a news release.

Texas also is providing $25 million to nurses for loan repayment, financial aid, and nursing education and $17.5 million for credentials for digital skills, data analytics and programs for front-line health care workers.

Other funding includes more than $30 million to improve student enrollment, retention and credential completion and $12.5 million for student financial aid programs, including transfer grants and the Texas Leadership Scholarship Program.

“In addition to Texas’ commitment to student success programs, this funding will help ensure that students of all ages will not only enter into a higher education program, but they will leave as quickly as possible with a high-value degree or credential,” Abbott said.

The remaining funding will support work to improve the state’s educational and workforce data infrastructure ($5 million) and Commercial Driver License training and repayment ($3 million).

“We have also quickly become a leader in workforce education, reskilling, and upskilling, and this additional funding will ensure a talent-strong Texas that continues to create and import jobs for decades to come,” Abbott said.

Texas Education Commissioner Mike Morath said in the news release that Abbott and legislative leaders have made public education a top priority even as COVID-19 created various challenges for schools.

"For some of our most at-risk students, this significant new round of funding will prioritize getting families across Texas direct access to special education and other targeted supplemental services to support their children’s varied educational needs,” Morath said.

Harrison Keller, Texas commissioner of higher education, said state leaders recognized during the pandemic that investments in higher education are essential for Texas’ economic recovery and future competitiveness.

“This commitment reflects a vision that has allowed Texas to become one of only a few states that prioritized discretionary federal stimulus funds for higher education,” Keller said. “We are grateful for these strategic investments in building a talent strong Texas.”

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Business/Economy

Musk Teases Huge Job Number At Austin-Area Tesla Factory
By Jaclyn Ramkissoon and Kathryn Hardison
KXAN

Travis County's Tesla gigafactory, which is expected to start production any day now, could have a bigger economic impact on the Austin area than originally thought, Austin Business Journal reports.

Tesla headquarters officially move to Austin
ABJ reported CEO Elon Musk wrote on Twitter last week the factory will be a $10 billion-plus investment "over time" and will create at least 20,000 direct jobs and 100,000 indirect jobs.

ABJ said if those plans play out, that could make the electric automaker one of the largest, if not the largest, private-sector employer in the Austin area. ABJ reports according to its records, as of July, popular grocer H-E-B held the No. 1 spot with roughly 19,000 workers.

Tesla intends to produce its Cybertruck, Model 3, Model Y SUV and Semi tractor-trailer at the factory.

Tesla production plant on track to finish on time, state filings suggest
ABJ spoke to several analysts who cover the company; they said the gigafactory is critical to the company's production plans. One of them even stated, "Austin will be the core production artery for Tesla by 2023."

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Immigration/Border Security

DHS To Close Some Gaps In Border Wall In Ongoing Effort To Clean Up Trump-Era Projects
By Priscilla Alvarez
KVIA

The Department of Homeland Security plans to close small gaps in the border wall, make adjustments to prevent flooding and complete prior construction of access roads, the department announced Monday.

In one of his first actions in office, President Joe Biden ordered a pause on wall construction and called for a review of projects and funds. Over the course of the year, the administration has terminated border wall contracts and gradually returned land to property owners that had been seized for barrier construction.

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But as a result of the review, DHS has determined there is some work that must be completed.

Those activities include completing/installing drainage to prevent flooding, disposing of residual materials that are not required to complete work, and closing "small gaps that remain open from prior construction activities and remediating incomplete gates."

The work will be done in the US Border Patrol's San Diego, El Centro, Yuma, Tucson, El Paso, and Del Rio sectors. The work the administration will undertake is focused on addressing life, safety, environmental, and remediation requirements, the department said.

DHS has previously announced efforts to address unfinished projects, like repairs of border barriers in San Diego and in the Rio Grande Valley.

"The type of work that is required will vary by Sector and will be executed with available funding in priority locations identified by CBP," DHS said in a statement. "The Administration continues to call on Congress to cancel remaining border wall funding and instead fund smarter border security measures that are proven to be more effective at improving safety and security at the border."

DHS is using already-appropriated funds to address environmental issues stemming from the Trump administration's wall construction and for construction clean up.

The Biden administration's decision to halt construction has attracted criticism from Republicans, including Texas Gov. Greg Abbott who announced an initiative this year to build barriers along the Texas-Mexico border. Over the weekend, Abbott unveiled construction of a border wall underway in south Texas, while blaming the Biden administration for allegedly failing to "enforce the immigration laws."

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Gov. Abbott Asked Texas Landowners To Report Damage Caused By Migration. Here Are The Results So Far.
By Anastasiya Bolton
KENS

Texas landowners near the border with Mexico have been vocal for a while about the damages migration causes.

Broken fences, rammed gates and injury to livestock are common as migrants try to circumvent Border Patrol checkpoints and get north, several law enforcement officials along the border told KENS 5.

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In July, Governor Greg Abbott urged Texas landowners to complete a self-reporting damage survey to help estimate the costs, KENS 5 obtained the results of the survey so far.

“It's really unbelievable,” said Susan Kibbe, Executive Director of South Texans Property Rights Association (STPRA). “The amount of damage especially in some areas just because of where these ranchers are, sustain hundreds of thousands of dollars’ worth of damage.”

Kibbe told KENS 5, the association’s first landowner meeting was in 2005 to talk border security and immigration reform.

“It hasn't been resolved, hasn't been solved,” Kibbe told KENS 5. “And now there is no border security. So, you know, we're trying to get the word out and do the best we can to make a difference.”

So far, landowners and the counties have been paying the cost of migration.

“That's a federal issue,” Kibbe said. “That's been back and forth over the past decade.”

“These smugglers drive through fences,” she added, “ram gates, cut locks. Those fences are for a purpose that’s [to] separate cattle. So, when they do that, and go through multiple properties, then you have livestock exposed to sometimes public roads, mixed, where a whole year’s breeding season is diminished. It hits the pocketbook.”

Kibbe told KENS 5 the association didn’t have current estimates of landowner damages.

In July, Governor Abbott asked the landowners to help get that figure, and “inform the state’s ongoing efforts to secure the border,” as the press release stated.

Through a Public Information Request, KENS 5 obtained the results of the survey from July through November 2021.

The Excel spread sheets KENS 5 was provided, showed the state received 53 reports from owners and renters in multiple counties, including Maverick, Travis, Hidalgo counties, as well as Val Verde, Starr, Live Oak, Lavaca, Jackson and Webb.

Entries included information that some damaged structures were homes, some businesses. Some structures were uninhabitable, others, people were still able to occupy.

In a recent interview with KENS 5’s Niccole Caan, Abbott said the survey accomplishes several things.

“It provides us insight and information about the different ways that different communities have been harmed,” Abbott said. “We are aggregating all of those costs, and we're submitting those costs to Washington D.C. because the local communities had to

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bear those costs, but they shouldn't have to pay for them. It should be the federal government that pays for those costs."

The survey results obtained by KENS 5 so far don't show a complete picture of what landowners are dealing with. For example, it appears not everyone provided damage estimates when filling out their forms.

The individual reported estimated uninsured damages ranging from 3,000 to 100,000 dollars.

The estimates provide a window, though, into some of the daily challenges of border communities.

"This is just inhumane all the way around to all of us," Kibbe told KENS 5. "To the migrants, to landowners, to the citizens of this nation. And so, we just need somebody to our federal government to step up to the plate and do the job."

The border survey is still available for Texans to report damage related to border crisis.

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Transportation

In Texas Supreme Court Case, State Argues That Dallas-Houston Bullet Train Developer Can't Use Eminent Domain
By Alexa Ura
Texas Tribune

The Texas attorney general's office has put its weight behind a landowner's case against the companies developing a controversial Dallas-Houston bullet train, arguing they can't force people to sell parcels needed for the high-speed rail project.

Weighing in on the matter at the invitation of the Texas Supreme Court, the attorney general's office offered the latest twist in the nearly decade-long fight over a 240-mile line that would connect Dallas and Houston. While the project has picked up support from leaders of urban areas, it's encountered hard resistance from residents of the rural counties on its proposed path.

One of those residents, Leon County landowner James Miles, sued Texas Central after the private company sought permission to survey his 600-acre property in 2015 as part of its efforts to examine the land for the project. Miles asked the courts to declare that the company did not have the right to enter his property because it does not have the eminent domain authority granted to railroad companies.

He won at a trial court, but the legal dispute reached the Texas Supreme Court after a state appellate court in Corpus Christi sided with Texas Central and a related company.

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In a legal brief filed with the Texas Supreme Court on Friday, deputies for Texas Attorney General Ken Paxton argued the high court should reverse that appellate decision and rule in Miles' favor because the companies fall short of the Texas Constitution's definition of a rail company.

"The [companies] may only make preliminary examinations and surveys of private landowners' properties for the purpose of constructing and operating a bullet train if they are either railroad companies or interurban electric railway companies," the state wrote in its brief. "In the State's view, the [companies] are neither."

That leaves them with "no authority to enter, examine, survey or condemn Miles' land," the state wrote.

The state's legal brief turns largely on the meaning of a portion of the state Transportation Code that gives private entities the ability to exercise eminent domain if they are "operating a railroad." Reading at times as a semantic study in how to interpret tenses and grammar in state statute, the state said the companies could not be classified in that way because they "currently own no trains and have constructed no tracks or train depots."

"The rules of grammar confirm that the Respondents are not railroad companies," the AG's office argued.

In the litigation, the companies have contended they meet that definition under the Transportation Code because they have performed the preliminary activities needed to construct a railroad, creating a reasonable probability that they would operate a railroad in the future.

The state also disagreed with the companies on this point, saying they could not show a likelihood of procuring sufficient financing to complete the project.

Texas Central representatives did not immediately respond to a request for comment. The company has previously promised to fund the project — at a cost around $20 billion — with the support of private investors and without public funds.

Company executives have previously said they would prefer not to use eminent domain "at all" and would rather work out amicable sales agreements for the thousands of parcels needed to construct the project across 10 counties. The company has also vowed to minimize how much the line will impact the land around it.

The high-speed rail project has been mired by setbacks and controversy for the better part of a decade. In both courthouses and at the Capitol, opponents have zeroed in on Texas Central's claim that state law gives it the right to use eminent domain and force unwilling owners to sell their land.

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The push for the Dallas-Houston bullet train has been built on its promise of establishing a line on which trains could run at speeds of up to 205 mph to cut a trip that would normally take four hours by car down to 90 minutes.

But securing the land along its proposed route has proven a challenge. In 2020, Texas Central said it had secured more than 600 parcels covering just about 40% of the lots — not the land — it needs for the project. Given fierce opposition to the project in rural areas, eminent domain is seen as likely to become a necessity at some point.

In Leon County, one proposal would bisect Miles' 600 acres with a 100-foot right-of-way, according to the legal filings.

On Monday, opponents of the rail described the attorney general's brief as a "strong show of support for Texas private property rights."

"The brief filed by the [attorney general's office] is clear that the past activities, corporate structure and financial state of the project coupled with the very high level of uncertainty that the project would ever even be built does not meet a threshold that would support Texas Central's claim that it has eminent domain authority," the group Texans Against High-Speed Rail said in a press release.

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Opinion/Editorial

Gov. Greg Abbott Building The Border Wall Back Better
By Cal Thomas
Washington Times

During a debate with George H.W. Bush in New Hampshire in 1980, the moderator asked that Ronald Reagan's microphone be "turned off for the moment." Reagan was angry and said something that might be applied to the failure of the Biden administration to use materials lying unused in Texas paid for during the Trump administration to construct the border wall. Said Reagan, "I paid for this microphone." The clear implication was that since he paid for it, he ought to be able to use it.

Gov. Greg Abbott of Texas is making a similar argument. He believes the Biden administration, either to spite former President Donald Trump or because it is not interested in securing the border, refuses to use materials already paid for by taxpayers to resume construction of the wall. As a result, Mr. Abbott has ordered that construction resume, using state taxpayer funds and new materials.

More than $100 million of taxpayer money was spent on materials for the border wall during the Trump administration. They should be made available to Mr. Abbott, but the Biden administration won't allow it. Mr. Biden canceled contracts for its construction after entering office last January.

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The Texas Department of Transportation is set to pay nearly $25 million to construct a nearly two-mile concrete barrier along the border in Eagle Pass. The Texas Tribune reports: “Under the project, the state has also contracted for a temporary fence near the right of way along State Loop 480, which the Department of Public Safety has designated a high-traffic area for illegal immigration.”

Officers from the Texas Department of Public Safety are patrolling parts of the border where federal border control officers cannot be found. Immigrants who cross are being charged with trespassing and put in jail.

Sen. Joe Manchin is a weak gate guard on Build Back Better socialism
Mr. Abbott has said: “The Biden administration has abandoned its responsibilities to secure the border, and Texans are suffering as a result. The problems along the border are only getting worse due to President Biden’s inaction. Property is being destroyed, deadly drugs and illegal weapons are being smuggled into communities throughout the state, law enforcement is having to redirect their resources, and county judges and mayors face skyrocketing expenses. Texas is doing more than any state has ever done to protect the border, but it is clear that more is needed. In the Biden administration’s absence, Texas is stepping up to get the job done by building the border wall. Through this comprehensive public safety effort, we will secure the border, slow the influx of unlawful immigrants, and restore order in our border communities.”

As some media outlets (mostly Fox) show pictures of migrants illegally entering the country, and new reports find some are coming from other than Central American countries, opinion appears to be shifting. A Fox poll last spring found an increase in the portion of respondents saying the migrants “hurt” the country, and that attitude is seen across the board: “independents (+21), Republicans (+20), whites (+18), men (+16), women (+14), Blacks (+11) and Democrats (+8) are more likely to think immigrants hurt rather than help.”

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From:	Lindsey Forson
Cc:	Reynolds, Leslie; Dodd, Stacy; Milhofer, John; Maria Benson
Subject:	NASS Cybersecurity Committee: Updates on Federal Legislation
Date:	Friday, November 12, 2021 1:40:18 PM
Attachments:	BILLS-117hr3684enr-Infrastructure.pdf SenateCyberIncidentReportingBill_NDAA_11.11.21.docx HSGAC Cyber Amendment_Cosponsors.pdf

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Dear NASS Cybersecurity Committee, Chief Deputies, Elections Deputies, Communication Directors, and IT Directors –

Happy Friday! I hope this email finds you all well. I'm writing with a couple of federal legislative updates:

New Cybersecurity Grant Program in Infrastructure Investment and Jobs Act

You may have seen that the Infrastructure Investment and Jobs Act contains a $1 billion cybersecurity grant program for SLTT governments. The bill authorizes funding over four years as follows:

- for fiscal year 2022, $200,000,000
- for fiscal year 2023, $400,000,000
- for fiscal year 2024, $300,000,000
- for fiscal year 2025, $100,000,000

States must make 80 percent of the funds available to local governments. There is an investment (match) requirement for grant recipients of 10 percent for 2022, 20 percent for 2023, 30 percent for 2024, and 40 percent for 2025. The funding formula for states is based on total population and rural population. The grant program will be administered by FEMA and coordinated by CISA. The funds authorized by this legislation must still be appropriated.

Many of the details of this program will be determined by DHS (CISA and FEMA). This grant program is not election-specific. There are opportunities for the funds to impact elections that will presumably involve coordination between the state election office and the executive branch.

The full bill is attached; this legislation begins on page 844 and is titled "State and Local Cybersecurity Improvement Act." NASS will facilitate opportunities for you to receive more information and provide input. Please let us know if you have any questions in the meantime.

Cyber Incident Reporting Act of 2021 as Amendment to NDAA in Senate

Senator Peters and a bipartisan group of co-sponsors proposed an amendment to the Senate NDAA containing the Senate version of the Cyber Incident Reporting Act of 2021. I've attached an updated summary of the legislation. Also attached is the full amendment; this act begins on page 52. There were some changes compared to the standalone bill, but most relate to the rulemaking procedures. All of the following is still in the bill:

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- A requirement for “covered entities” to report “covered cyber incidents” to CISA within 72 hours of the reasonable belief that the incident occurred. Covered entities include federal contractors and critical infrastructure owners and operators, and covered cyber incidents include substantial incidents experienced by a covered entity. The CISA Director is responsible for further defining covered entities and covered cyber incidents through rulemaking.
- Requirement for all entities except for individuals and specifically defined small organizations to report ransom payments to CISA within 24 hours.
- Provides CISA enforcement mechanisms when entities do not comply with reporting requirements including direct engagement, issuing subpoenas, and referral to the Attorney General for further action. **However, SLTT government entities are excluded from the enforcement mechanisms for failure to comply with reporting requirements.**

As a reminder, language requiring cyber incident reporting was included as an amendment in the House NDAA, but there are key differences between the House version and the Senate version. Of particular note, the House version does not include a provision that excludes SLTT government entities from non-compliance penalties. If this amendment is included in the Senate NDAA, the differences between the versions will need to be worked out in conference.

Now is the time to contact your Senators to share your thoughts on this legislation. If you have any questions, NASS staff would be happy to seek clarification from congressional staff.

I hope you all have a nice weekend.

Best,
Lindsey

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From: Lindsey Forson
Sent: Wednesday, September 29, 2021 2:45 PM
Cc: Reynolds, Leslie [redacted]; Dodd, Stacy [redacted]>; Milhofer, John [redacted]>; Maria Benson [redacted]>
Subject: NASS Cybersecurity Committee: Senate version of Cyber Incident Reporting Act introduced

Dear NASS Cybersecurity Committee, Chief Deputies, Elections Deputies, Communication Directors and IT Directors –

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Senator Peters and Senator Portman introduced their version of the Cyber Incident Reporting Act of 2021 yesterday. There were some changes from the discussion draft they previously provided to NASS (referenced in the two emails below). Attached to this email is the bill as introduced and an updated summary prepared by NASS staff.

Most of the changes were not substantial – clarifying language was added, the sections were reorganized, etc. One substantive change from the discussion draft to the introduced version is the timeline for submitting required reports. As introduced, the bill requires certain entities to report certain cybersecurity incidents to CISA within 72 hours of the reasonable belief that the incident occurred and to report ransom payments within 24 hours of making a payment. (The discussion draft gave CISA more flexibility in determining reporting timeframes.)

All of the following is still in the Peters/Portman Senate version of the bill:

- Requirement for the CISA Director to, through rulemaking, define a subset of critical infrastructure entities as "covered entities" who will be required to report any "covered cybersecurity incidents" to CISA. Covered cybersecurity incidents will also be defined by CISA in the rule.
- Requirement for all entities except for individuals and specifically defined small businesses to report ransom payments to CISA
- Provides CISA enforcement mechanisms when entities do not comply with reporting requirements including direct engagement, issuing subpoenas, civil action, and referral to the Attorney General for further action. **However, SLTT government entities are excluded from the enforcement mechanisms for failure to comply with reporting requirements.**

As described in the email directly below, a House version of this bill (with key differences addressed below) was included as an amendment in the version of the NDAA that the House approved last week. **Media reports suggest there will be efforts to add incident reporting language to the Senate version of the NDAA.** It is not clear whether an amendment to the Senate NDAA would use the House language or the language from Senator Peters' (D-MI) and Senator Portman's (R-OH) draft. There is also a possibility the Senate would incorporate language from another bipartisan bill with similar goals: S.2407 - Cyber Incident Notification Act of 2021. Any differences between the House and Senate versions of the NDAA would have to be worked out in conference.

In the meantime, the Senate Homeland Security and Government Affairs Committee is likely to consider the Peters/Portman legislation as a standalone bill. A mark-up will likely be scheduled in the very near future. Senator Peters' staff suggested that any feedback on the legislation has more potential to be impactful if received by the end of this week. I would be happy to pass along any feedback or questions you may have.

Best,
Lindsey

Lindsey Forson
Director of Cybersecurity Programs

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From: Lindsey Forson
Sent: Friday, September 24, 2021 5:01 PM
Cc: Reynolds, Leslie <[redacted]; Dodd, Stacy <[redacted]; Milhofer, John [redacted]>; Maria Benson [redacted]
Subject: NASS Cybersecurity Committee: House version of Cyber Incident Reporting Act in House NDAA

Dear NASS Cybersecurity Committee, Chief Deputies, Elections Deputies, Communication Directors and IT Directors –

Last night, the House approved the National Defense Authorization Act (NDAA) with an amendment that would require some critical infrastructure entities to report certain cybersecurity incidents to CISA. The language of the amendment is included in this report of amendments that were approved earlier this week by the House Rules Committee (see amendment 108 on page 319). Attached is a summary of the amendment prepared by NASS staff.

As we noted in a previous email (see below), the Senate has also drafted legislation to require some critical infrastructure entities to report cyber incidents to CISA. The Senate draft has many similarities to the language approved in the House NDAA, but there are several key differences (see below). The Senate draft was not included in the Senate version of NDAA that was introduced yesterday. It's not clear if the Senate will approve the NDAA with the incident reporting language as an amendment, and if it does, whether it would use the House language or the language from Senator Peters' (D-MI) and Senator Portman's (R-OH) draft. Any differences between the House and Senate versions of NDAA would have to be worked out in conference. The Senate could also move forward with the legislation as a standalone bill.

We will keep you informed as we learn of any movement. If you have questions or feedback on this legislation, whether it be support, concerns or preferences between the versions, the best place to direct your feedback right now is to the Senate – Senator Peters' staff has encouraged NASS members to share your individual feedback with his office and/or Senator Portman's office either directly or through NASS. I would be happy to pass your feedback along or track down answers to your questions. Depending on your thoughts, you may also consider reaching out to your Senators.

Comparison of House NDAA language and draft Senate bill:

Provisions in **BOTH** House NDAA version and the Senate bill:

- Requires the CISA Director to make a rule that would define a subset of critical infrastructure entities as "covered entities" who will be required to report any "covered cybersecurity incidents" to CISA. Covered cybersecurity incidents will also be defined by

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CISA in the rule.

- The CISA Director shall follow up with covered entities who do not report a suspected covered incident. The legislation would give the CISA Director subpoena power for situations where entities still do not comply after direct engagement from CISA and provides mechanisms for enforcement through civil action and/or providing information to the Attorney General for action.

Provisions from the Senate draft bill that **ARE NOT** in the House NDAA version:

- The Senate version directs the CISA Director to create requirements for all entities except for small businesses and individuals to report ransom payments while the House version does not. The House version focuses only on covered incident reports by covered entities.
- The Senate version excludes SLTT government entities from penalties for failure to comply with reporting requirements. **The House version does not include a provision that excludes SLTT government entities from non-compliance penalties.**

Please let me know if you have any questions. I hope everyone has a nice weekend.

Best,
Lindsey

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From: Lindsey Forson
Sent: Thursday, September 16, 2021 11:55 AM
Cc: Reynolds, Leslie <[redacted]>; Dodd, Stacy [redacted]>; Milhofer, John <[redacted]>; Maria Benson [redacted]
Subject: NASS Cybersecurity Committee: Discussion Draft of Cyber Incident Reporting Act from Senator Peters and Senator Portman

Dear NASS Cybersecurity Committee, Chief Deputies, Elections Deputies, and IT Directors –

Attached is a discussion draft of the Cyber Incident Reporting Act from Chairman Peters and Ranking Member Portman of the Senate Homeland Security and Governmental Affairs Committee as well as a summary prepared by NASS staff. This draft is subject to change, but a version of it will likely be introduced soon. Chairman Peters' staff asked NASS staff to distribute this language to our members and solicit feedback or questions. They asked for feedback as soon as possible. You may reach out directly to either Senator Peters' (D-MI) or Senator Portman's (R-OH) office or send me your

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feedback/questions, and I will happily pass it along/track down answers.

Senator Peters' staff said this bill is similar though not identical to the House version being prepared by Chairman Thompson, Ranking Member Katko and Cybersecurity Subcommittee Chairwoman Clarke of the House Homeland Security Committee. Representative Thompson and Representative Katko discussed their bill during our recent meeting, but we do not yet have language.

Media reports suggest there are efforts to include this legislation in the annual National Defense Authorization Act this year. So there is a possibility of it moving quickly.

The attached summary covers most details of the draft legislation. To concisely summarize the most relevant elements, this bill would authorize the CISA Director to make a rule that:

- Requires all entities, except for individuals and specifically defined small businesses, to report to CISA any ransom payments they make in response to a ransomware attack; and
- Define a subset of critical infrastructure entities as "covered entities" who will be required to report any "covered cybersecurity incidents" to CISA. Covered cybersecurity incidents will also be defined by CISA in the rule.
- The CISA Director shall follow up with entities who do not report a suspected covered incident or ransom payment. This bill would give the CISA Director subpoena power for situations where entities still do not comply after direct engagement from CISA.
- Though this legislation would require your offices (through the CISA rule) to report any ransom payments (related to ransomware attacks) to CISA and would authorize CISA to require your offices to report some cybersecurity incidents, the legislation excludes State, Local, Tribal and Territorial (SLTT) government entities from the penalties for failure to comply with the reporting requirements.

Please let me know if you have any questions.

Best,
Lindsey

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H. R. 3684

One Hundred Seventeenth Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Sunday, the third day of January, two thousand and twenty-one

An Act

To authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Infrastructure Investment and Jobs Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References.

DIVISION A—SURFACE TRANSPORTATION

Sec. 10001. Short title.
Sec. 10002. Definitions.
Sec. 10003. Effective date.

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Authorizations and Programs

Sec. 11101. Authorization of appropriations.
Sec. 11102. Obligation ceiling.
Sec. 11103. Definitions.
Sec. 11104. Apportionment.
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SEC. 2. REFERENCES.

Except as expressly provided otherwise, any reference to "this Act" contained in any division of this Act shall be treated as referring only to the provisions of that division.

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DIVISION A—SURFACE TRANSPORTATION

SEC. 10001. SHORT TITLE.

This division may be cited as the "Surface Transportation Reauthorization Act of 2021".

SEC. 10002. DEFINITIONS.

In this division:

(1) DEPARTMENT.—The term "Department" means the Department of Transportation.

(2) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

SEC. 10003. EFFECTIVE DATE.

Except as otherwise provided, this division and the amendments made by this division take effect on October 1, 2021.

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Authorizations and Programs

SEC. 11101. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following amounts are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) FEDERAL-AID HIGHWAY PROGRAM.—For the national highway performance program under section 119 of title 23, United States Code, the surface transportation block grant program under section 133 of that title, the highway safety improvement program under section 148 of that title, the congestion mitigation and air quality improvement program under section 149 of that title, the national highway freight program under section 167 of that title, the carbon reduction program under section 175 of that title, to carry out subsection (c) of the PROTECT program under section 176 of that title, and to carry out section 134 of that title—

(A) $52,488,065,375 for fiscal year 2022;
(B) $53,537,826,683 for fiscal year 2023;
(C) $54,608,583,217 for fiscal year 2024;
(D) $55,700,754,881 for fiscal year 2025; and
(E) $56,814,769,844 for fiscal year 2026.

(2) TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION PROGRAM.—For credit assistance under the transportation infrastructure finance and innovation program under chapter 6 of title 23, United States Code, $250,000,000 for each of fiscal years 2022 through 2026.

(3) FEDERAL LANDS AND TRIBAL TRANSPORTATION PROGRAMS.—

(A) TRIBAL TRANSPORTATION PROGRAM.—For the tribal transportation program under section 202 of title 23, United States Code—

(i) $578,460,000 for fiscal year 2022;
(ii) $589,960,000 for fiscal year 2023;
(iii) $602,460,000 for fiscal year 2024;

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(iv) $612,960,000 for fiscal year 2025; and
(v) $627,960,000 for fiscal year 2026.

(B) FEDERAL LANDS TRANSPORTATION PROGRAM.—

(i) IN GENERAL.—For the Federal lands transportation program under section 203 of title 23, United States Code—

(I) $421,965,000 for fiscal year 2022;
(II) $429,965,000 for fiscal year 2023;
(III) $438,965,000 for fiscal year 2024;
(IV) $447,965,000 for fiscal year 2025; and
(V) $455,965,000 for fiscal year 2026.

(ii) ALLOCATION.—Of the amount made available for a fiscal year under clause (i)—

(I) the amount for the National Park Service is—

(aa) $332,427,450 for fiscal year 2022;
(bb) $338,867,450 for fiscal year 2023;
(cc) $346,237,450 for fiscal year 2024;
(dd) $353,607,450 for fiscal year 2025; and
(ee) $360,047,450 for fiscal year 2026;

(II) the amount for the United States Fish and Wildlife Service is $36,000,000 for each of fiscal years 2022 through 2026; and

(III) the amount for the Forest Service is—

(aa) $24,000,000 for fiscal year 2022;
(bb) $25,000,000 for fiscal year 2023;
(cc) $26,000,000 for fiscal year 2024;
(dd) $27,000,000 for fiscal year 2025; and
(ee) $28,000,000 for fiscal year 2026.

(C) FEDERAL LANDS ACCESS PROGRAM.—For the Federal lands access program under section 204 of title 23, United States Code—

(i) $285,975,000 for fiscal year 2022;
(ii) $291,975,000 for fiscal year 2023;
(iii) $296,975,000 for fiscal year 2024;
(iv) $303,975,000 for fiscal year 2025; and
(v) $308,975,000 for fiscal year 2026.

(4) TERRITORIAL AND PUERTO RICO HIGHWAY PROGRAM.—For the territorial and Puerto Rico highway program under section 165 of title 23, United States Code—

(A) $219,000,000 for fiscal year 2022;
(B) $224,000,000 for fiscal year 2023;
(C) $228,000,000 for fiscal year 2024;
(D) $232,500,000 for fiscal year 2025; and
(E) $237,000,000 for fiscal year 2026.

(5) NATIONALLY SIGNIFICANT FREIGHT AND HIGHWAY PROJECTS.—For nationally significant freight and highway projects under section 117 of title 23, United States Code—

(A) $1,000,000,000 for fiscal year 2022;
(B) $1,000,000,000 for fiscal year 2023;
(C) $1,000,000,000 for fiscal year 2024;
(D) $900,000,000 for fiscal year 2025; and
(E) $900,000,000 for fiscal year 2026.

(b) OTHER PROGRAMS.—

(1) IN GENERAL.—The following amounts are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

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(A) BRIDGE INVESTMENT PROGRAM.—To carry out the bridge investment program under section 124 of title 23, United States Code—

(i) $600,000,000 for fiscal year 2022;
(ii) $640,000,000 for fiscal year 2023;
(iii) $650,000,000 for fiscal year 2024;
(iv) $675,000,000 for fiscal year 2025; and
(v) $700,000,000 for fiscal year 2026.

(B) CONGESTION RELIEF PROGRAM.—To carry out the congestion relief program under section 129(d) of title 23, United States Code, $50,000,000 for each of fiscal years 2022 through 2026.

(C) CHARGING AND FUELING INFRASTRUCTURE GRANTS.—To carry out section 151(f) of title 23, United States Code—

(i) $300,000,000 for fiscal year 2022;
(ii) $400,000,000 for fiscal year 2023;
(iii) $500,000,000 for fiscal year 2024;
(iv) $600,000,000 for fiscal year 2025; and
(v) $700,000,000 for fiscal year 2026.

(D) RURAL SURFACE TRANSPORTATION GRANT PROGRAM.—To carry out the rural surface transportation grant program under section 173 of title 23, United States Code—

(i) $300,000,000 for fiscal year 2022;
(ii) $350,000,000 for fiscal year 2023;
(iii) $400,000,000 for fiscal year 2024;
(iv) $450,000,000 for fiscal year 2025; and
(v) $500,000,000 for fiscal year 2026.

(E) PROTECT GRANTS.—

(i) IN GENERAL.—To carry out subsection (d) of the PROTECT program under section 176 of title 23, United States Code, for each of fiscal years 2022 through 2026—

(I) $250,000,000 for fiscal year 2022;
(II) $250,000,000 for fiscal year 2023;
(III) $300,000,000 for fiscal year 2024;
(IV) $300,000,000 for fiscal year 2025; and
(V) $300,000,000 for fiscal year 2026.

(ii) ALLOCATION.—Of the amounts made available under clause (i)—

(I) for planning grants under paragraph (3) of that subsection—

(aa) $25,000,000 for fiscal year 2022;
(bb) $25,000,000 for fiscal year 2023;
(cc) $30,000,000 for fiscal year 2024;
(dd) $30,000,000 for fiscal year 2025; and
(ee) $30,000,000 for fiscal year 2026;

(II) for resilience improvement grants under paragraph (4)(A) of that subsection—

(aa) $175,000,000 for fiscal year 2022;
(bb) $175,000,000 for fiscal year 2023;
(cc) $210,000,000 for fiscal year 2024;
(dd) $210,000,000 for fiscal year 2025; and
(ee) $210,000,000 for fiscal year 2026;

(III) for community resilience and evacuation route grants under paragraph (4)(B) of that subsection—

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(aa) $25,000,000 for fiscal year 2022;
(bb) $25,000,000 for fiscal year 2023;
(cc) $30,000,000 for fiscal year 2024;
(dd) $30,000,000 for fiscal year 2025; and
(ee) $30,000,000 for fiscal year 2026; and

(IV) for at-risk coastal infrastructure grants under paragraph (4)(C) of that subsection—
(aa) $25,000,000 for fiscal year 2022;
(bb) $25,000,000 for fiscal year 2023;
(cc) $30,000,000 for fiscal year 2024;
(dd) $30,000,000 for fiscal year 2025; and
(ee) $30,000,000 for fiscal year 2026.

(F) REDUCTION OF TRUCK EMISSIONS AT PORT FACILITIES.—

(i) IN GENERAL.—To carry out the reduction of truck emissions at port facilities under section 11402, $50,000,000 for each of fiscal years 2022 through 2026.

(ii) TREATMENT.—Amounts made available under clause (i) shall be available for obligation in the same manner as if those amounts were apportioned under chapter 1 of title 23, United States Code.

(G) NATIONALLY SIGNIFICANT FEDERAL LANDS AND TRIBAL PROJECTS.—

(i) IN GENERAL.—To carry out the nationally significant Federal lands and tribal projects program under section 1123 of the FAST Act (23 U.S.C. 201 note; Public Law 114–94), $55,000,000 for each of fiscal years 2022 through 2026.

(ii) TREATMENT.—Amounts made available under clause (i) shall be available for obligation in the same manner as if those amounts were apportioned under chapter 1 of title 23, United States Code.

(2) GENERAL FUND.—

(A) BRIDGE INVESTMENT PROGRAM.—

(i) IN GENERAL.—In addition to amounts made available under paragraph (1)(A), there are authorized to be appropriated to carry out the bridge investment program under section 124 of title 23, United States Code—

(I) $600,000,000 for fiscal year 2022;
(II) $640,000,000 for fiscal year 2023;
(III) $650,000,000 for fiscal year 2024;
(IV) $675,000,000 for fiscal year 2025; and
(V) $700,000,000 for fiscal year 2026.

(ii) ALLOCATION.—Amounts made available under clause (i) shall be allocated in the same manner as if made available under paragraph (1)(A).

(B) NATIONALLY SIGNIFICANT FEDERAL LANDS AND TRIBAL PROJECTS PROGRAM.—In addition to amounts made available under paragraph (1)(G), there is authorized to be appropriated to carry out section 1123 of the FAST Act (23 U.S.C. 201 note; Public Law 114–94) $300,000,000 for each of fiscal years 2022 through 2026.

(C) HEALTHY STREETS PROGRAM.—There is authorized to be appropriated to carry out the Healthy Streets program under section 11406 $100,000,000 for each of fiscal years 2022 through 2026.

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(D) TRANSPORTATION RESILIENCE AND ADAPTATION CENTERS OF EXCELLENCE.—There is authorized to be appropriated to carry out section 520 of title 23, United States Code, $100,000,000 for each of fiscal years 2022 through 2026.

(E) OPEN CHALLENGE AND RESEARCH PROPOSAL PILOT PROGRAM.—There is authorized to be appropriated to carry out the open challenge and research proposal pilot program under section 13006(e) $15,000,000 for each of fiscal years 2022 through 2026.

(c) RESEARCH, TECHNOLOGY, AND EDUCATION AUTHORIZATIONS.—

(1) IN GENERAL.—The following amounts are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(A) HIGHWAY RESEARCH AND DEVELOPMENT PROGRAM.—To carry out section 503(b) of title 23, United States Code, $147,000,000 for each of fiscal years 2022 through 2026.

(B) TECHNOLOGY AND INNOVATION DEPLOYMENT PROGRAM.—To carry out section 503(c) of title 23, United States Code, $110,000,000 for each of fiscal years 2022 through 2026.

(C) TRAINING AND EDUCATION.—To carry out section 504 of title 23, United States Code—

(i) $25,000,000 for fiscal year 2022;
(ii) $25,250,000 for fiscal year 2023;
(iii) $25,500,000 for fiscal year 2024;
(iv) $25,750,000 for fiscal year 2025; and
(v) $26,000,000 for fiscal year 2026.

(D) INTELLIGENT TRANSPORTATION SYSTEMS PROGRAM.—To carry out sections 512 through 518 of title 23, United States Code, $110,000,000 for each of fiscal years 2022 through 2026.

(E) UNIVERSITY TRANSPORTATION CENTERS PROGRAM.—To carry out section 5505 of title 49, United States Code—

(i) $80,000,000 for fiscal year 2022;
(ii) $80,500,000 for fiscal year 2023;
(iii) $81,000,000 for fiscal year 2024;
(iv) $81,500,000 for fiscal year 2025; and
(v) $82,000,000 for fiscal year 2026.

(F) BUREAU OF TRANSPORTATION STATISTICS.—To carry out chapter 63 of title 49, United States Code—

(i) $26,000,000 for fiscal year 2022;
(ii) $26,250,000 for fiscal year 2023;
(iii) $26,500,000 for fiscal year 2024;
(iv) $26,750,000 for fiscal year 2025; and
(v) $27,000,000 for fiscal year 2026.

(2) ADMINISTRATION.—The Federal Highway Administration shall—

(A) administer the programs described in subparagraphs (A), (B), and (C) of paragraph (1); and

(B) in consultation with relevant modal administrations, administer the programs described in paragraph (1)(D).

(3) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Amounts authorized to be appropriated by paragraph (1) shall—

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(A) be available for obligation in the same manner as if those funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project or activity carried out using those funds shall be 80 percent, unless otherwise expressly provided by this division (including the amendments by this division) or otherwise determined by the Secretary; and

(B) remain available until expended and not be transferable, except as otherwise provided by this division.

(d) PILOT PROGRAMS.—The following amounts are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) WILDLIFE CROSSINGS PILOT PROGRAM.—For the wildlife crossings pilot program under section 171 of title 23, United States Code—

(A) $60,000,000 for fiscal year 2022;
(B) $65,000,000 for fiscal year 2023;
(C) $70,000,000 for fiscal year 2024;
(D) $75,000,000 for fiscal year 2025; and
(E) $80,000,000 for fiscal year 2026.

(2) PRIORITIZATION PROCESS PILOT PROGRAM.—

(A) IN GENERAL.—For the prioritization process pilot program under section 11204, $10,000,000 for each of fiscal years 2022 through 2026.

(B) TREATMENT.—Amounts made available under subparagraph (A) shall be available for obligation in the same manner as if those amounts were apportioned under chapter 1 of title 23, United States Code.

(3) RECONNECTING COMMUNITIES PILOT PROGRAM.—

(A) PLANNING GRANTS.—For planning grants under the reconnecting communities pilot program under section 11509(c), $30,000,000 for each of fiscal years 2022 through 2026.

(B) CAPITAL CONSTRUCTION GRANTS.—For capital construction grants under the reconnecting communities pilot program under section 11509(d)—

(i) $65,000,000 for fiscal year 2022;
(ii) $68,000,000 for fiscal year 2023;
(iii) $70,000,000 for fiscal year 2024;
(iv) $72,000,000 for fiscal year 2025; and
(v) $75,000,000 for fiscal year 2026.

(C) TREATMENT.—Amounts made available under subparagraph (A) or (B) shall be available for obligation in the same manner as if those amounts were apportioned under chapter 1 of title 23, United States Code, except that those amounts shall remain available until expended.

(e) DISADVANTAGED BUSINESS ENTERPRISES.—

(1) FINDINGS.—Congress finds that—

(A) while significant progress has occurred due to the establishment of the disadvantaged business enterprise program, discrimination and related barriers continue to pose significant obstacles for minority- and women-owned businesses seeking to do business in Federally assisted surface transportation markets across the United States;

(B) the continuing barriers described in subparagraph (A) merit the continuation of the disadvantaged business enterprise program;

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(C) Congress has received and reviewed testimony and documentation of race and gender discrimination from numerous sources, including congressional hearings and roundtables, scientific reports, reports issued by public and private agencies, news stories, reports of discrimination by organizations and individuals, and discrimination lawsuits, which show that race- and gender-neutral efforts alone are insufficient to address the problem;

(D) the testimony and documentation described in subparagraph (C) demonstrate that discrimination across the United States poses a barrier to full and fair participation in surface transportation-related businesses of women business owners and minority business owners and has impacted firm development and many aspects of surface transportation-related business in the public and private markets; and

(E) the testimony and documentation described in subparagraph (C) provide a strong basis that there is a compelling need for the continuation of the disadvantaged business enterprise program to address race and gender discrimination in surface transportation-related business.

(2) DEFINITIONS.—In this subsection:

(A) SMALL BUSINESS CONCERN.—

(i) IN GENERAL.—The term "small business concern" means a small business concern (as the term is used in section 3 of the Small Business Act (15 U.S.C. 632)).

(ii) EXCLUSIONS.—The term "small business concern" does not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals that have average annual gross receipts during the preceding 3 fiscal years in excess of $26,290,000, as adjusted annually by the Secretary for inflation.

(B) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "socially and economically disadvantaged individuals" has the meaning given the term in section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations issued pursuant to that Act, except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this subsection.

(3) AMOUNTS FOR SMALL BUSINESS CONCERNS.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under this division (other than section 14004), division C, and section 403 of title 23, United States Code, shall be expended through small business concerns owned and controlled by socially and economically disadvantaged individuals.

(4) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually—

(A) survey and compile a list of the small business concerns referred to in paragraph (3) in the State, including the location of the small business concerns in the State; and

(B) notify the Secretary, in writing, of the percentage of the small business concerns that are controlled by—

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(i) women;

(ii) socially and economically disadvantaged individuals (other than women); and

(iii) individuals who are women and are otherwise socially and economically disadvantaged individuals.

(5) UNIFORM CERTIFICATION.—

(A) IN GENERAL.—The Secretary shall establish minimum uniform criteria for use by State governments in certifying whether a concern qualifies as a small business concern for the purpose of this subsection.

(B) INCLUSIONS.—The minimum uniform criteria established under subparagraph (A) shall include, with respect to a potential small business concern—

(i) on-site visits;

(ii) personal interviews with personnel;

(iii) issuance or inspection of licenses;

(iv) analyses of stock ownership;

(v) listings of equipment;

(vi) analyses of bonding capacity;

(vii) listings of work completed;

(viii) examination of the resumes of principal owners;

(ix) analyses of financial capacity; and

(x) analyses of the type of work preferred.

(6) REPORTING.—The Secretary shall establish minimum requirements for use by State governments in reporting to the Secretary—

(A) information concerning disadvantaged business enterprise awards, commitments, and achievements; and

(B) such other information as the Secretary determines to be appropriate for the proper monitoring of the disadvantaged business enterprise program.

(7) COMPLIANCE WITH COURT ORDERS.—Nothing in this subsection limits the eligibility of an individual or entity to receive funds made available under this division, division C, and section 403 of title 23, United States Code, if the entity or person is prevented, in whole or in part, from complying with paragraph (3) because a Federal court issues a final order in which the court finds that a requirement or the implementation of paragraph (3) is unconstitutional.

(8) SENSE OF CONGRESS ON PROMPT PAYMENT OF DBE SUBCONTRACTORS.—It is the sense of Congress that—

(A) the Secretary should take additional steps to ensure that recipients comply with section 26.29 of title 49, Code of Federal Regulations (the disadvantaged business enterprises prompt payment rule), or any corresponding regulation, in awarding Federally funded transportation contracts under laws and regulations administered by the Secretary; and

(B) such additional steps should include increasing the ability of the Department to track and keep records of complaints and to make that information publicly available.

SEC. 11102. OBLIGATION CEILING.

(a) GENERAL LIMITATION.—Subject to subsection (e), and notwithstanding any other provision of law, the obligations for Federal-

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aid highway and highway safety construction programs shall not exceed—

(1) $57,473,430,072 for fiscal year 2022;
(2) $58,764,510,674 for fiscal year 2023;
(3) $60,095,782,888 for fiscal year 2024;
(4) $61,314,170,545 for fiscal year 2025; and
(5) $62,657,105,821 for fiscal year 2026.

(b) EXCEPTIONS.—The limitations under subsection (a) shall not apply to obligations under or for—

(1) section 125 of title 23, United States Code;
(2) section 147 of the Surface Transportation Assistance Act of 1978 (23 U.S.C. 144 note; 92 Stat. 2714);
(3) section 9 of the Federal-Aid Highway Act of 1981 (95 Stat. 1701);
(4) subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982 (96 Stat. 2119);
(5) subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 198);
(6) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027);
(7) section 157 of title 23, United States Code (as in effect on June 8, 1998);
(8) section 105 of title 23, United States Code (as in effect for fiscal years 1998 through 2004, but only in an amount equal to $639,000,000 for each of those fiscal years);
(9) Federal-aid highway programs for which obligation authority was made available under the Transportation Equity Act for the 21st Century (112 Stat. 107) or subsequent Acts for multiple years or to remain available until expended, but only to the extent that the obligation authority has not lapsed or been used;
(10) section 105 of title 23, United States Code (as in effect for fiscal years 2005 through 2012, but only in an amount equal to $639,000,000 for each of those fiscal years);
(11) section 1603 of SAFETEA–LU (23 U.S.C. 118 note; 119 Stat. 1248), to the extent that funds obligated in accordance with that section were not subject to a limitation on obligations at the time at which the funds were initially made available for obligation;
(12) section 119 of title 23, United States Code (as in effect for fiscal years 2013 through 2015, but only in an amount equal to $639,000,000 for each of those fiscal years);
(13) section 119 of title 23, United States Code (as in effect for fiscal years 2016 through 2021, but only in an amount equal to $639,000,000 for each of those fiscal years); and
(14) section 119 of title 23, United States Code (but, for fiscal years 2022 through 2026, only in an amount equal to $639,000,000 for each of those fiscal years).

(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—For each of fiscal years 2022 through 2026, the Secretary—

(1) shall not distribute obligation authority provided by subsection (a) for the fiscal year for—
(A) amounts authorized for administrative expenses and programs by section 104(a) of title 23, United States Code; and

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(B) amounts authorized for the Bureau of Transportation Statistics;

(2) shall not distribute an amount of obligation authority provided by subsection (a) that is equal to the unobligated balance of amounts—

(A) made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highway and highway safety construction programs for previous fiscal years the funds for which are allocated by the Secretary (or apportioned by the Secretary under section 202 or 204 of title 23, United States Code); and

(B) for which obligation authority was provided in a previous fiscal year;

(3) shall determine the proportion that—

(A) the obligation authority provided by subsection (a) for the fiscal year, less the aggregate of amounts not distributed under paragraphs (1) and (2) of this subsection; bears to

(B) the total of the sums authorized to be appropriated for the Federal-aid highway and highway safety construction programs (other than sums authorized to be appropriated for provisions of law described in paragraphs (1) through (13) of subsection (b) and sums authorized to be appropriated for section 119 of title 23, United States Code, equal to the amount referred to in subsection (b)(14) for the fiscal year), less the aggregate of the amounts not distributed under paragraphs (1) and (2) of this subsection;

(4) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2), for each of the programs (other than programs to which paragraph (1) applies) that are allocated by the Secretary under this division and title 23, United States Code, or apportioned by the Secretary under section 202 or 204 of that title, by multiplying—

(A) the proportion determined under paragraph (3); by

(B) the amounts authorized to be appropriated for each such program for the fiscal year; and

(5) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2) and the amounts distributed under paragraph (4), for Federal-aid highway and highway safety construction programs that are apportioned by the Secretary under title 23, United States Code (other than the amounts apportioned for the national highway performance program in section 119 of title 23, United States Code, that are exempt from the limitation under subsection (b)(14) and the amounts apportioned under sections 202 and 204 of that title) in the proportion that—

(A) amounts authorized to be appropriated for the programs that are apportioned under title 23, United States Code, to each State for the fiscal year; bears to

(B) the total of the amounts authorized to be appropriated for the programs that are apportioned under title 23, United States Code, to all States for the fiscal year.

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(d) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (c), the Secretary shall, after August 1 of each of fiscal years 2022 through 2026—

(1) revise a distribution of the obligation authority made available under subsection (c) if an amount distributed cannot be obligated during that fiscal year; and

(2) redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year, giving priority to those States having large unobligated balances of funds apportioned under sections 144 (as in effect on the day before the date of enactment of MAP–21 (Public Law 112–141; 126 Stat. 405)) and 104 of title 23, United States Code.

(e) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), obligation limitations imposed by subsection (a) shall apply to contract authority for transportation research programs carried out under chapter 5 of title 23, United States Code.

(2) EXCEPTION.—Obligation authority made available under paragraph (1) shall—

(A) remain available for a period of 4 fiscal years; and

(B) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(f) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—

(1) IN GENERAL.—Not later than 30 days after the date of distribution of obligation authority under subsection (c) for each of fiscal years 2022 through 2026, the Secretary shall distribute to the States any funds (excluding funds authorized for the program under section 202 of title 23, United States Code) that—

(A) are authorized to be appropriated for the fiscal year for Federal-aid highway programs; and

(B) the Secretary determines will not be allocated to the States (or will not be apportioned to the States under section 204 of title 23, United States Code), and will not be available for obligation, for the fiscal year because of the imposition of any obligation limitation for the fiscal year.

(2) RATIO.—Funds shall be distributed under paragraph (1) in the same proportion as the distribution of obligation authority under subsection (c)(5).

(3) AVAILABILITY.—Funds distributed to each State under paragraph (1) shall be available for any purpose described in section 133(b) of title 23, United States Code.

SEC. 11103. DEFINITIONS.

Section 101(a) of title 23, United States Code, is amended—

(1) in paragraph (4)—

(A) in subparagraph (A), by inserting "assessing resilience," after "surveying,";

(B) in subparagraph (G), by striking "and" at the end;

(C) by redesignating subparagraph (H) as subparagraph (I); and

(D) by inserting after subparagraph (G) the following:

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"(H) improvements that reduce the number of wildlife-vehicle collisions, such as wildlife crossing structures; and";

(2) by redesignating paragraphs (17) through (34) as paragraphs (18), (19), (20), (21), (22), (23), (25), (26), (27), (28), (29), (30), (31), (32), (33), (34), (35), and (36), respectively;

(3) by inserting after paragraph (16) the following:

"(17) NATURAL INFRASTRUCTURE.—The term 'natural infrastructure' means infrastructure that uses, restores, or emulates natural ecological processes and—

"(A) is created through the action of natural physical, geological, biological, and chemical processes over time;

"(B) is created by human design, engineering, and construction to emulate or act in concert with natural processes; or

"(C) involves the use of plants, soils, and other natural features, including through the creation, restoration, or preservation of vegetated areas using materials appropriate to the region to manage stormwater and runoff, to attenuate flooding and storm surges, and for other related purposes.";

(4) by inserting after paragraph (23) (as so redesignated) the following:

"(24) RESILIENCE.—The term 'resilience', with respect to a project, means a project with the ability to anticipate, prepare for, or adapt to conditions or withstand, respond to, or recover rapidly from disruptions, including the ability—

"(A)(i) to resist hazards or withstand impacts from weather events and natural disasters; or

"(ii) to reduce the magnitude or duration of impacts of a disruptive weather event or natural disaster on a project; and

"(B) to have the absorptive capacity, adaptive capacity, and recoverability to decrease project vulnerability to weather events or other natural disasters."; and

(5) in subparagraph (A) of paragraph (32) (as so redesignated)—

(A) by striking the period at the end and inserting "; and";

(B) by striking "through the implementation" and inserting the following: "through—

"(i) the implementation"; and

(C) by adding at the end the following:

"(ii) the consideration of incorporating natural infrastructure.".

SEC. 11104. APPORTIONMENT.

(a) ADMINISTRATIVE EXPENSES.—Section 104(a)(1) of title 23, United States Code, is amended by striking subparagraphs (A) through (E) and inserting the following:

"(A) $490,964,697 for fiscal year 2022;
"(B) $500,783,991 for fiscal year 2023;
"(C) $510,799,671 for fiscal year 2024;
"(D) $521,015,664 for fiscal year 2025; and
"(E) $531,435,977 for fiscal year 2026.".

(b) DIVISION AMONG PROGRAMS OF STATE SHARE.—Section 104(b) of title 23, United States Code, is amended in subsection (b)—

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(1) in the matter preceding paragraph (1), by inserting "the carbon reduction program under section 175, to carry out subsection (c) of the PROTECT program under section 176," before "and to carry out section 134";

(2) in paragraph (1), by striking "63.7 percent" and inserting "59.0771195921461 percent";

(3) in paragraph (2), by striking "29.3 percent" and inserting "28.7402203421251 percent";

(4) in paragraph (3), by striking "7 percent" and inserting "6.70605141316253 percent";

(5) by striking paragraph (4) and inserting the following:

"(4) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—

"(A) IN GENERAL.—For the congestion mitigation and air quality improvement program, an amount determined for the State under subparagraphs (B) and (C).

"(B) TOTAL AMOUNT.—The total amount for the congestion mitigation and air quality improvement program for all States shall be—

"(i) $2,536,490,803 for fiscal year 2022;
"(ii) $2,587,220,620 for fiscal year 2023;
"(iii) $2,638,965,032 for fiscal year 2024;
"(iv) $2,691,744,332 for fiscal year 2025; and
"(v) $2,745,579,213 for fiscal year 2026.

"(C) STATE SHARE.—For each fiscal year, the Secretary shall distribute among the States the total amount for the congestion mitigation and air quality improvement program under subparagraph (B) so that each State receives an amount equal to the proportion that—

"(i) the amount apportioned to the State for the congestion mitigation and air quality improvement program for fiscal year 2020; bears to

"(ii) the total amount of funds apportioned to all States for that program for fiscal year 2020.";

(6) in paragraph (5)—

(A) by striking subparagraph (B) and inserting the following:

"(B) TOTAL AMOUNT.—The total amount set aside for the national highway freight program for all States shall be—

"(i) $1,373,932,519 for fiscal year 2022;
"(ii) $1,401,411,169 for fiscal year 2023;
"(iii) $1,429,439,392 for fiscal year 2024;
"(iv) $1,458,028,180 for fiscal year 2025; and
"(v) $1,487,188,740 for fiscal year 2026."; and

(B) by striking subparagraph (D); and

(7) by striking paragraph (6) and inserting the following:

"(6) METROPOLITAN PLANNING.—

"(A) IN GENERAL.—To carry out section 134, an amount determined for the State under subparagraphs (B) and (C).

"(B) TOTAL AMOUNT.—The total amount for metropolitan planning for all States shall be—

"(i) $ 438,121,139 for fiscal year 2022;
"(ii) $446,883,562 for fiscal year 2023;
"(iii) $455,821,233 for fiscal year 2024;
"(iv) $464,937,657 for fiscal year 2025; and

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"(v) $474,236,409 for fiscal year 2026.

"(C) STATE SHARE.—For each fiscal year, the Secretary shall distribute among the States the total amount to carry out section 134 under subparagraph (B) so that each State receives an amount equal to the proportion that—

"(i) the amount apportioned to the State to carry out section 134 for fiscal year 2020; bears to

"(ii) the total amount of funds apportioned to all States to carry out section 134 for fiscal year 2020.

"(7) CARBON REDUCTION PROGRAM.—For the carbon reduction program under section 175, 2.56266964565637 percent of the amount remaining after distributing amounts under paragraphs (4), (5), and (6).

"(8) PROTECT FORMULA PROGRAM.—To carry out subsection (c) of the PROTECT program under section 176, 2.91393900690991 percent of the amount remaining after distributing amounts under paragraphs (4), (5), and (6).".

(c) CALCULATION OF AMOUNTS.—Section 104(c) of title 23, United States Code, is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking "each of fiscal years 2016 through 2020" and inserting "fiscal year 2022 and each fiscal year thereafter";

(B) in subparagraph (A)—

(i) by striking clause (i) and inserting the following:

"(i) the base apportionment; by"; and

(ii) in clause (ii)(I), by striking "fiscal year 2015" and inserting "fiscal year 2021"; and

(C) by striking subparagraph (B) and inserting the following:

"(B) GUARANTEED AMOUNTS.—The initial amounts resulting from the calculation under subparagraph (A) shall be adjusted to ensure that each State receives an aggregate apportionment that is—

"(i) equal to at least 95 percent of the estimated tax payments paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available that are—

"(I) attributable to highway users in the State; and

"(II) associated with taxes in effect on July 1, 2019, and only up to the rate those taxes were in effect on that date;

"(ii) at least 2 percent greater than the apportionment that the State received for fiscal year 2021; and

"(iii) at least 1 percent greater than the apportionment that the State received for the previous fiscal year."; and

(2) in paragraph (2)—

(A) by striking "fiscal years 2016 through 2020" and inserting "fiscal year 2022 and each fiscal year thereafter"; and

(B) by inserting "the carbon reduction program under section 175, to carry out subsection (c) of the PROTECT program under section 176," before "and to carry out section 134".

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(d) METROPOLITAN PLANNING.—Section 104(d)(1)(A) of title 23, United States Code, is amended by striking "paragraphs (5)(D) and (6) of subsection (b)" each place it appears and inserting "subsection (b)(6)".

(e) SUPPLEMENTAL FUNDS.—Section 104 of title 23, United States Code, is amended by striking subsection (h).

(f) BASE APPORTIONMENT DEFINED.—Section 104 of title 23, United States Code, is amended—

(1) by redesignating subsection (i) as subsection (h); and

(2) in subsection (h) (as so redesignated)—

(A) by striking "means" in the matter preceding paragraph (1) and all that follows through "the combined amount" in paragraph (1) and inserting "means the combined amount";

(B) by striking "and to carry out section 134; minus" and inserting "the carbon reduction program under section 175, to carry out subsection (c) of the PROTECT program under section 176, and to carry out section 134."; and

(C) by striking paragraph (2).

SEC. 11105. NATIONAL HIGHWAY PERFORMANCE PROGRAM.

Section 119 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(4) to provide support for activities to increase the resiliency of the National Highway System to mitigate the cost of damages from sea level rise, extreme weather events, flooding, wildfires, or other natural disasters.";

(2) in subsection (d)(2), by adding at the end the following:

"(Q) Undergrounding public utility infrastructure carried out in conjunction with a project otherwise eligible under this section.

"(R) Resiliency improvements on the National Highway System, including protective features described in subsection (k)(2).

"(S) Implement activities to protect segments of the National Highway System from cybersecurity threats.";

(3) in subsection (e)(4)(D), by striking "analysis" and inserting "analyses, both of which shall take into consideration extreme weather and resilience"; and

(4) by adding at the end the following:

"(k) PROTECTIVE FEATURES.—

"(1) IN GENERAL.—A State may use not more than 15 percent of the funds apportioned to the State under section 104(b)(1) for each fiscal year for 1 or more protective features on a Federal-aid highway or bridge not on 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.

"(2) PROTECTIVE FEATURES DESCRIBED.—A protective feature referred to in paragraph (1) includes—

"(A) raising roadway grades;

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

"(C) stabilizing slide areas;

"(D) stabilizing slopes;

"(E) lengthening or raising bridges to increase waterway openings;

"(F) increasing the size or number of drainage structures;

"(G) replacing culverts with bridges or upsizing culverts;

"(H) installing seismic retrofits on bridges;

"(I) adding scour protection at bridges, installing riprap, or adding other scour, stream stability, coastal, or other hydraulic countermeasures, including spur dikes; and

"(J) the use of natural infrastructure to mitigate the risk of recurring damage or the cost of future repair from extreme weather events, flooding, or other natural disasters.

"(3) SAVINGS PROVISION.—Nothing in this subsection limits the ability of a State to carry out a project otherwise eligible under subsection (d) using funds apportioned under section 104(b)(1).".

SEC. 11106. EMERGENCY RELIEF.

Section 125 of title 23, United States Code, is amended—

(1) in subsection (a)(1), by inserting "wildfire," after "severe storm,";

(2) by striking subsection (b) and inserting the following:

"(b) RESTRICTION ON ELIGIBILITY.—Funds under this section shall not be used for the repair or reconstruction of a bridge that has been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to a structural deficiency or physical deterioration."; and

(3) in subsection (d)—

(A) in paragraph (2)(A)—

(i) by striking the period at the end and inserting "; and";

(ii) by striking "a facility that meets the current" and inserting the following: "a facility that—

"(i) meets the current"; and

(iii) by adding at the end the following:

"(ii) incorporates economically justifiable improvements that will mitigate the risk of recurring damage from extreme weather, flooding, and other natural disasters.";

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

"(3) PROTECTIVE FEATURES.—

"(A) IN GENERAL.—The cost of an improvement that is part of a project under this section shall be an eligible expense under this section if the improvement is a protective feature that will mitigate the risk of recurring damage or the cost of future repair from extreme weather, flooding, and other natural disasters.

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"(B) PROTECTIVE FEATURES DESCRIBED.—A protective feature referred to in subparagraph (A) includes—

"(i) raising roadway grades;

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

"(iii) stabilizing slide areas;

"(iv) stabilizing slopes;

"(v) lengthening or raising bridges to increase waterway openings;

"(vi) increasing the size or number of drainage structures;

"(vii) replacing culverts with bridges or upsizing culverts;

"(viii) installing seismic retrofits on bridges;

"(ix) adding scour protection at bridges, installing riprap, or adding other scour, stream stability, coastal, or other hydraulic countermeasures, including spur dikes; and

"(x) the use of natural infrastructure to mitigate the risk of recurring damage or the cost of future repair from extreme weather, flooding, and other natural disasters.".

SEC. 11107. FEDERAL SHARE PAYABLE.

Section 120 of title 23, United States Code, is amended—

(1) in subsection (c)—

(A) in paragraph (1), in the first sentence, by inserting "vehicle-to-infrastructure communication equipment," after "breakaway utility poles,";

(B) in subparagraph (3)(B)—

(i) in clause (v), by striking "or" at the end;

(ii) by redesignating clause (vi) as clause (vii); and

(iii) by inserting after clause (v) the following:

"(vi) contractual provisions that provide safety contingency funds to incorporate safety enhancements to work zones prior to or during roadway construction activities; or"; and

(C) by adding at the end the following:

"(4) POOLED FUNDING.—Notwithstanding any other provision of law, the Secretary may waive the non-Federal share of the cost of a project or activity under section 502(b)(6) that is carried out with amounts apportioned under section 104(b)(2) after considering appropriate factors, including whether—

"(A) decreasing or eliminating the non-Federal share would best serve the interests of the Federal-aid highway program; and

"(B) the project or activity addresses national or regional high priority research, development, and technology transfer problems in a manner that would benefit multiple States or metropolitan planning organizations.";

(2) in subsection (e)—

(A) in paragraph (1), by striking "180 days" and inserting "270 days"; and

(B) in paragraph (4), by striking "permanent"; and

(3) by adding at the end the following:

"(l) FEDERAL SHARE FLEXIBILITY PILOT PROGRAM.—

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"(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Secretary shall establish a pilot program (referred to in this subsection as the 'pilot program') to give States additional flexibility with respect to the Federal requirements under this section.

"(2) PROGRAM.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a State participating in the pilot program (referred to in this subsection as a 'participating State') may determine the Federal share on a project, multiple-project, or program basis for projects under any of the following:

"(i) The national highway performance program under section 119.

"(ii) The surface transportation block grant program under section 133.

"(iii) The highway safety improvement program under section 148.

"(iv) The congestion mitigation and air quality improvement program under section 149.

"(v) The national highway freight program under section 167.

"(vi) The carbon reduction program under section 175.

"(vii) Subsection (c) of the PROTECT program under section 176.

"(B) REQUIREMENTS.—

"(i) MAXIMUM FEDERAL SHARE.—Subject to clause (iii), the Federal share of the cost of an individual project carried out under a program described in subparagraph (A) by a participating State and to which the participating State is applying the Federal share requirements under the pilot program may be up to 100 percent.

"(ii) MINIMUM FEDERAL SHARE.—No individual project carried out under a program described in subparagraph (A) by a participating State and to which the participating State is applying the Federal share requirements under the pilot program shall have a Federal share of 0 percent.

"(iii) DETERMINATION.—The average annual Federal share of the total cost of all projects authorized under a program described in subparagraph (A) to which a participating State is applying the Federal share requirements under the pilot program shall be not more than the average of the maximum Federal share of those projects if those projects were not carried out under the pilot program.

"(C) SELECTION.—

"(i) APPLICATION.—A State seeking to be a participating State shall—

"(I) submit to the Secretary an application in such form, at such time, and containing such information as the Secretary may require; and

"(II) have in place adequate financial controls to allow the State to determine the average annual

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Federal share requirements under the pilot program.

"(ii) REQUIREMENT.—For each of fiscal years 2022 through 2026, the Secretary shall select not more than 10 States to be participating States.".

SEC. 11108. RAILWAY-HIGHWAY GRADE CROSSINGS.

(a) IN GENERAL.—Section 130(e) of title 23, United States Code, is amended—

(1) in the heading, by striking "PROTECTIVE DEVICES" and inserting "RAILWAY-HIGHWAY GRADE CROSSINGS"; and

(2) in paragraph (1)—

(A) in subparagraph (A), by striking "and the installation of protective devices at railway-highway crossings" in the matter preceding clause (i) and all that follows through "2020." in clause (v) and inserting the following: ", the installation of protective devices at railway-highway crossings, the replacement of functionally obsolete warning devices, and as described in subparagraph (B), not less than $245,000,000 for each of fiscal years 2022 through 2026."; and

(B) by striking subparagraph (B) and inserting the following:

"(B) REDUCING TRESPASSING FATALITIES AND INJURIES.—A State may use funds set aside under subparagraph (A) for projects to reduce pedestrian fatalities and injuries from trespassing at grade crossings.".

(b) FEDERAL SHARE.—Section 130(f)(3) of title 23, United States Code, is amended by striking "90 percent" and inserting "100 percent".

(c) INCENTIVE PAYMENTS FOR AT-GRADE CROSSING CLOSURES.—Section 130(i)(3)(B) of title 23, United States Code, is amended by striking "$7,500" and inserting "$100,000".

(d) EXPENDITURE OF FUNDS.—Section 130(k) of title 23, United States Code, is amended by striking "2 percent" and inserting "8 percent".

(e) GAO STUDY.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that includes an analysis of the effectiveness of the railway-highway crossings program under section 130 of title 23, United States Code.

(f) SENSE OF CONGRESS RELATING TO TRESPASSER DEATHS ALONG RAILROAD RIGHTS-OF-WAY.—It is the sense of Congress that the Department should, where feasible, coordinate departmental efforts to prevent or reduce trespasser deaths along railroad rights-of-way and at or near railway-highway crossings.

SEC. 11109. SURFACE TRANSPORTATION BLOCK GRANT PROGRAM.

(a) IN GENERAL.—Section 133 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (B)—

(I) by adding "or" at the end;

(II) by striking "facilities eligible" and inserting the following: "facilities—

"(i) that are eligible"; and

(III) by adding at the end the following:

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"(ii) that are privately or majority-privately owned, but that the Secretary determines provide a substantial public transportation benefit or otherwise meet the foremost needs of the surface transportation system described in section 101(b)(3)(D);";

(ii) in subparagraph (E), by striking "and" at the end;

(iii) in subparagraph (F), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(G) wildlife crossing structures.";

(B) in paragraph (3), by inserting "148(a)(4)(B)(xvii)," after "119(g),";

(C) by redesignating paragraphs (4) through (15) as paragraphs (5), (6), (7), (8), (9), (10), (11), (12), (13), (20), (21), and (22), respectively;

(D) in paragraph (5) (as so redesignated), by striking "railway-highway grade crossings" and inserting "projects eligible under section 130 and installation of safety barriers and nets on bridges";

(E) in paragraph (7) (as so redesignated)—

(i) by inserting "including the maintenance and restoration of existing recreational trails," after "section 206"; and

(ii) by striking "the safe routes to school program under section 1404 of SAFETEA–LU (23 U.S.C. 402 note)" and inserting "the safe routes to school program under section 208";

(F) by inserting after paragraph (13) (as so redesignated) the following:

"(14) Projects and strategies designed to reduce the number of wildlife-vehicle collisions, including project-related planning, design, construction, monitoring, and preventative maintenance.

"(15) The installation of electric vehicle charging infrastructure and vehicle-to-grid infrastructure.

"(16) The installation and deployment of current and emerging intelligent transportation technologies, including the ability of vehicles to communicate with infrastructure, buildings, and other road users.

"(17) Planning and construction of projects that facilitate intermodal connections between emerging transportation technologies, such as magnetic levitation and hyperloop.

"(18) Protective features, including natural infrastructure, to enhance the resilience of a transportation facility otherwise eligible for assistance under this section.

"(19) Measures to protect a transportation facility otherwise eligible for assistance under this section from cybersecurity threats."; and

(G) by adding at the end the following:

"(23) Rural barge landing, dock, and waterfront infrastructure projects in accordance with subsection (j).

"(24) Projects to enhance travel and tourism.";

(2) in subsection (c)—

(A) in paragraph (2), by striking "paragraphs (4) through (11)" and inserting "paragraphs (5) through (15) and paragraph (23)";

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(B) in paragraph (3), by striking "and" at the end;

(C) by redesignating paragraph (4) as paragraph (5); and

(D) by inserting after paragraph (3) the following:

"(4) for a bridge project for the replacement of a low water crossing (as defined by the Secretary) with a bridge; and";

(3) in subsection (d)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking "reservation" and inserting "set aside"; and

(ii) in subparagraph (A)—

(I) in the matter preceding clause (i), by striking "the percentage specified in paragraph (6) for a fiscal year" and inserting "55 percent for each of fiscal years 2022 through 2026"; and

(II) by striking clauses (ii) and (iii) and inserting the following:

"(ii) in urbanized areas of the State with an urbanized area population of not less than 50,000 and not more than 200,000;

"(iii) in urban areas of the State with a population not less than 5,000 and not more than 49,999; and

"(iv) in other areas of the State with a population less than 5,000; and";

(B) by striking paragraph (3) and inserting the following:

"(3) LOCAL CONSULTATION.—

"(A) CONSULTATION WITH METROPOLITAN PLANNING ORGANIZATIONS.—For purposes of clause (ii) of paragraph (1)(A), a State shall—

"(i) establish a process to consult with all metropolitan planning organizations in the State that represent an urbanized area described in that clause; and

"(ii) describe how funds allocated for areas described in that clause will be allocated equitably among the applicable urbanized areas during the period of fiscal years 2022 through 2026.

"(B) CONSULTATION WITH REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS.—For purposes of clauses (iii) and (iv) of paragraph (1)(A), before obligating funding attributed to an area with a population less than 50,000, a State shall consult with the regional transportation planning organizations that represent the area, if any."; and

(C) by striking paragraph (6);

(4) in subsection (e)(1), in the matter preceding subparagraph (A), by striking "fiscal years 2016 through 2020" and inserting "fiscal years 2022 through 2026";

(5) in subsection (f)—

(A) in paragraph (1)—

(i) by inserting "or low water crossing (as defined by the Secretary)" after "a highway bridge"; and

(ii) by inserting "or low water crossing (as defined by the Secretary)" after "other than a bridge";

(B) in paragraph (2)(A)—

(i) by striking "activities described in subsection (b)(2) for off-system bridges" and inserting "activities

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described in paragraphs (1)(A) and (10) of subsection (b) for off-system bridges, projects and activities described in subsection (b)(1)(A) for the replacement of low water crossings with bridges, and projects and activities described in subsection (b)(10) for low water crossings (as defined by the Secretary),"; and

(ii) by striking "15 percent" and inserting "20 percent"; and

(C) in paragraph (3), in the matter preceding subparagraph (A)—

(i) by striking "bridge or rehabilitation of a bridge" and inserting "bridge, rehabilitation of a bridge, or replacement of a low water crossing (as defined by the Secretary) with a bridge"; and

(ii) by inserting "or, in the case of a replacement of a low water crossing with a bridge, is determined by the Secretary on completion to have improved the safety of the location" after "no longer a deficient bridge";

(6) in subsection (g)—

(A) in the subsection heading, by striking "LESS THAN 5,000" and inserting "LESS THAN 50,000"; and

(B) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—Notwithstanding subsection (c), and except as provided in paragraph (2), up to 15 percent of the amounts required to be obligated by a State under clauses (iii) and (iv) of subsection (d)(1)(A) for each fiscal year may be obligated on—

"(A) roads functionally classified as rural minor collectors or local roads; or

"(B) on critical rural freight corridors designated under section 167(e).."; and

(7) by adding at the end the following:

"(j) RURAL BARGE LANDING, DOCK, AND WATERFRONT INFRASTRUCTURE PROJECTS.—

"(1) IN GENERAL.—A State may use not more than 5 percent of the funds apportioned to the State under section 104(b)(2) for eligible rural barge landing, dock, and waterfront infrastructure projects described in paragraph (2).

"(2) ELIGIBLE PROJECTS.—An eligible rural barge landing, dock, or waterfront infrastructure project referred to in paragraph (1) is a project for the planning, designing, engineering, or construction of a barge landing, dock, or other waterfront infrastructure in a rural community or a Native village (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)) that is off the road system.

"(k) PROJECTS IN RURAL AREAS.—

"(1) SET ASIDE.—Notwithstanding subsection (c), in addition to the activities described in subsections (b) and (g), of the amounts apportioned to a State for each fiscal year to carry out this section, not more than 15 percent may be—

"(A) used on eligible projects under subsection (b) or maintenance activities on roads functionally classified as rural minor collectors or local roads, ice roads, or seasonal roads; or

"(B) transferred to—

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"(i) the Appalachian Highway System Program under 14501 of title 40; or

"(ii) the Denali access system program under section 309 of the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277).

"(2) SAVINGS CLAUSE.—Amounts allocated under subsection (d) shall not be used to carry out this subsection, except at the request of the applicable metropolitan planning organization.".

(b) SET-ASIDE.—

(1) IN GENERAL.—Section 133(h) of title 23, United States Code, is amended—

(A) in paragraph (1)—

(i) in the heading, by striking "RESERVATION OF FUNDS" and inserting "IN GENERAL"; and

(ii) in the matter preceding subparagraph (A), by striking "for each fiscal year" and all that follows through "and" at the end of subparagraph (A)(ii) and inserting the following: "for fiscal year 2022 and each fiscal year thereafter—

"(A) the Secretary shall set aside an amount equal to 10 percent to carry out this subsection; and";

(B) by striking paragraph (2) and inserting the following:

"(2) ALLOCATION WITHIN A STATE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), funds set aside for a State under paragraph (1) shall be obligated within that State in the manner described in subsection (d), except that, for purposes of this paragraph (after funds are made available under paragraph (5))—

"(i) for fiscal year 2022 and each fiscal year thereafter, the percentage referred to in paragraph (1)(A) of that subsection shall be deemed to be 59 percent; and

"(ii) paragraph (3) of subsection (d) shall not apply.

"(B) LOCAL CONTROL.—A State may allocate up to 100 percent of the funds referred to in subparagraph (A)(i) if—

"(i) the State submits to the Secretary a plan that describes—

"(I) how funds will be allocated to counties, metropolitan planning organizations, regional transportation planning organizations as described in section 135(m), or local governments;

"(II) how the entities described in subclause (I) will carry out a competitive process to select projects for funding and report selected projects to the State;

"(III) the legal, financial, and technical capacity of the entities described in subclause (I);

"(IV) how input was gathered from the entities described in subclause (I) to ensure those entities will be able to comply with the requirements of this subsection; and

"(V) how the State will comply with paragraph (8); and

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"(ii) the Secretary approves the plan submitted under clause (i).";

(C) by striking paragraph (3) and inserting the following:

"(3) ELIGIBLE PROJECTS.—Funds set aside under this subsection may be obligated for—

"(A) projects or activities described in section 101(a)(29) or 213, as those provisions were in effect on the day before the date of enactment of the FAST Act (Public Law 114–94; 129 Stat. 1312);

"(B) projects and activities under the safe routes to school program under section 208; and

"(C) activities in furtherance of a vulnerable road user safety assessment (as defined in section 148(a)).";

(D) in paragraph (4)—

(i) by striking subparagraph (A);

(ii) by redesignating subparagraph (B) as subparagraph (A);

(iii) in subparagraph (A) (as so redesignated)—

(I) by redesignating clauses (vii) and (viii) as clauses (viii) and (ix), respectively;

(II) by inserting after clause (vi) the following:

"(vii) a metropolitan planning organization that serves an urbanized area with a population of 200,000 or fewer;";

(III) in clause (viii) (as so redesignated), by striking "responsible" and all that follows through "programs; and" and inserting a semicolon;

(IV) in clause (ix) (as so redesignated)—

(aa) by inserting "that serves an urbanized area with a population of over 200,000" after "metropolitan planning organization"; and

(bb) by striking the period at the end and inserting "; and"; and

(V) by adding at the end the following:

"(x) a State, at the request of an entity described in clauses (i) through (ix).";

(iv) by adding at the end the following:

"(B) COMPETITIVE PROCESS.—A State or metropolitan planning organization required to obligate funds in accordance with paragraph (2) shall develop a competitive process to allow eligible entities to submit projects for funding that achieve the objectives of this subsection.

"(C) SELECTION.—A metropolitan planning organization for an area described in subsection (d)(1)(A)(i) shall select projects under the competitive process described in subparagraph (B) in consultation with the relevant State.

"(D) PRIORITIZATION.—The competitive process described in subparagraph (B) shall include prioritization of project location and impact in high-need areas as defined by the State, such as low-income, transit-dependent, rural, or other areas.";

(E) in paragraph (5)(A), by striking "reserved under this section" and inserting "set aside under this subsection";

(F) in paragraph (6)—

(i) in subparagraph (B), by striking "reserved" and inserting "set aside"; and

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(ii) by adding at the end the following:

"(C) IMPROVING ACCESSIBILITY AND EFFICIENCY.—

"(i) IN GENERAL.—A State may use an amount equal to not more than 5 percent of the funds set aside for the State under this subsection, after allocating funds in accordance with paragraph (2)(A), to improve the ability of applicants to access funding for projects under this subsection in an efficient and expeditious manner by providing—

"(I) to applicants for projects under this subsection application assistance, technical assistance, and assistance in reducing the period of time between the selection of the project and the obligation of funds for the project; and

"(II) funding for 1 or more full-time State employee positions to administer this subsection.

"(ii) USE OF FUNDS.—Amounts used under clause (i) may be expended—

"(I) directly by the State; or

"(II) through contracts with State agencies, private entities, or nonprofit entities.";

(G) by redesignating paragraph (7) as paragraph (8);

(H) by inserting after paragraph (6) the following:

"(7) FEDERAL SHARE.—

"(A) REQUIRED AGGREGATE NON-FEDERAL SHARE.—The average annual non-Federal share of the total cost of all projects for which funds are obligated under this subsection in a State for a fiscal year shall be not less than the average non-Federal share of the cost of the projects that would otherwise apply.

"(B) FLEXIBLE FINANCING.—Subject to subparagraph (A), notwithstanding section 120—

"(i) funds made available to carry out section 148 may be credited toward the non-Federal share of the costs of a project under this subsection if the project—

"(I) is an eligible project described in section 148(e)(1); and

"(II) is consistent with the State strategic highway safety plan (as defined in section 148(a));

"(ii) the non-Federal share for a project under this subsection may be calculated on a project, multiple-project, or program basis; and

"(iii) the Federal share of the cost of an individual project in this section may be up to 100 percent.

"(C) REQUIREMENT.—Subparagraph (B) shall only apply to a State if the State has adequate financial controls, as certified by the Secretary, to account for the average annual non-Federal share under this paragraph."; and

(I) in subparagraph (A) of paragraph (8) (as so redesignated)—

(i) in the matter preceding clause (i), by striking "describes" and inserting "includes"; and

(ii) by striking clause (ii) and inserting the following:

"(ii) a list of each project selected for funding for each fiscal year, including, for each project—

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"(I) the fiscal year during which the project was selected;

"(II) the fiscal year in which the project is anticipated to be funded;

"(III) the recipient;

"(IV) the location, including the congressional district;

"(V) the type;

"(VI) the cost; and

"(VII) a brief description.".

(2) STATE TRANSFERABILITY.—Section 126(b)(2) of title 23, United States Code, is amended—

(A) by striking the period at the end and inserting "; and";

(B) by striking "reserved for a State under section 133(h) for a fiscal year may" and inserting the following: "set aside for a State under section 133(h) for a fiscal year—

"(A) may"; and

(C) by adding at the end the following:

"(B) may only be transferred if the Secretary certifies that the State—

"(i) held a competition in compliance with the guidance issued to carry out section 133(h) and provided sufficient time for applicants to apply;

"(ii) offered to each eligible entity, and provided on request of an eligible entity, technical assistance; and

"(iii) demonstrates that there were not sufficiently suitable applications from eligible entities to use the funds to be transferred.".

SEC. 11110. NATIONALLY SIGNIFICANT FREIGHT AND HIGHWAY PROJECTS.

(a) IN GENERAL.—Section 117 of title 23, United States Code, is amended—

(1) in the section heading, by inserting "**multimodal**" before "**freight**";

(2) in subsection (a)(2)—

(A) in subparagraph (A), by inserting "in and across rural and urban areas" after "people";

(B) in subparagraph (C), by inserting "or freight" after "highway";

(C) in subparagraph (E), by inserting "or freight" after "highway"; and

(D) in subparagraph (F), by inserting ", including highways that support movement of energy equipment" after "security";

(3) in subsection (b), by adding at the end the following: "(3) GRANT ADMINISTRATION.—The Secretary may—

"(A) retain not more than a total of 2 percent of the funds made available to carry out this section for the National Surface Transportation and Innovative Finance Bureau to review applications for grants under this section; and

"(B) transfer portions of the funds retained under subparagraph (A) to the relevant Administrators to fund

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the award and oversight of grants provided under this section.";

(4) in subsection (c)(1)—

(A) by redesignating subparagraph (H) as subparagraph (I); and

(B) by inserting after subparagraph (G) the following:

"(H) A multistate corridor organization.";

(5) in subsection (d)—

(A) in paragraph (1)(A)—

(i) in clause (iii)(II), by striking "or" at the end;

(ii) in clause (iv), by striking "and" at the end; and

(iii) by adding at the end the following:

"(v) a wildlife crossing project;

"(vi) a surface transportation infrastructure project that—

"(I) is located within the boundaries of or functionally connected to an international border crossing area in the United States;

"(II) improves a transportation facility owned by a Federal, State, or local government entity; and

"(III) increases throughput efficiency of the border crossing described in subclause (I), including—

"(aa) a project to add lanes;

"(bb) a project to add technology; and

"(cc) other surface transportation improvements;

"(vii) a project for a marine highway corridor designated by the Secretary under section 55601(c) of title 46 (including an inland waterway corridor), if the Secretary determines that the project—

"(I) is functionally connected to the National Highway Freight Network; and

"(II) is likely to reduce on-road mobile source emissions; or

"(viii) a highway, bridge, or freight project carried out on the National Multimodal Freight Network established under section 70103 of title 49; and"; and

(B) in paragraph (2)(A), in the matter preceding clause (i)—

(i) by striking "$600,000,000" and inserting "30 percent"; and

(ii) by striking "fiscal years 2016 through 2020, in the aggregate," and inserting "each of fiscal years 2022 through 2026";

(6) in subsection (e)—

(A) in paragraph (1), by striking "10 percent" and inserting "not less than 15 percent";

(B) in paragraph (3)—

(i) in subparagraph (A), by striking "and" at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

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"(C) the effect of the proposed project on safety on freight corridors with significant hazards, such as high winds, heavy snowfall, flooding, rockslides, mudslides, wildfire, wildlife crossing onto the roadway, or steep grades."; and

(C) by adding at the end the following:

"(4) REQUIREMENT.—Of the amounts reserved under paragraph (1), not less than 30 percent shall be used for projects in rural areas (as defined in subsection (i)(3))."

(7) in subsection (f)(2), by inserting "(including a project to replace or rehabilitate a culvert, or to reduce stormwater runoff for the purpose of improving habitat for aquatic species)" after "environmental mitigation";

(8) in subsection (h)—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(4) enhancement of freight resilience to natural hazards or disasters, including high winds, heavy snowfall, flooding, rockslides, mudslides, wildfire, wildlife crossing onto the roadway, or steep grades;

"(5) whether the project will improve the shared transportation corridor of a multistate corridor organization, if applicable; and

"(6) prioritizing projects located in States in which neither the State nor an eligible entity in that State has been awarded a grant under this section.";

(9) in subsection (i)(2), by striking "other grants under this section" and inserting "grants under subsection (e)";

(10) in subsection (j)—

(A) by striking the subsection designation and heading and all that follows through "The Federal share" in paragraph (1) and inserting the following:

"(j) FEDERAL ASSISTANCE.—

"(1) FEDERAL SHARE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) or for a grant under subsection (q), the Federal share";

(B) in paragraph (1), by adding at the end the following:

"(B) SMALL PROJECTS.—In the case of a project described in subsection (e)(1), the Federal share of the cost of the project shall be 80 percent."; and

(C) in paragraph (2)—

(i) by striking "Federal assistance other" and inserting "Except for grants under subsection (q), Federal assistance other"; and

(ii) by striking "except that the total Federal" and inserting the following: "except that—

"(A) for a State with a population density of not more than 80 persons per square mile of land area, based on the 2010 census, the maximum share of the total Federal assistance provided for a project receiving a grant under this section shall be the applicable share under section 120(b); and

"(B) for a State not described in subparagraph (A), the total Federal";

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(11) by redesignating subsections (k) through (n) as subsections (l), (m), (n), and (p), respectively;

(12) by inserting after subsection (j) the following:

"(k) EFFICIENT USE OF NON-FEDERAL FUNDS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law and subject to approval by the Secretary under paragraph (2)(B), in the case of any grant for a project under this section, during the period beginning on the date on which the grant recipient is selected and ending on the date on which the grant agreement is signed—

"(A) the grant recipient may obligate and expend non-Federal funds with respect to the project for which the grant is provided; and

"(B) any non-Federal funds obligated or expended in accordance with subparagraph (A) shall be credited toward the non-Federal cost share for the project for which the grant is provided.

"(2) REQUIREMENTS.—

"(A) APPLICATION.—In order to obligate and expend non-Federal funds under paragraph (1), the grant recipient shall submit to the Secretary a request to obligate and expend non-Federal funds under that paragraph, including—

"(i) a description of the activities the grant recipient intends to fund;

"(ii) a justification for advancing the activities described in clause (i), including an assessment of the effects to the project scope, schedule, and budget if the request is not approved; and

"(iii) the level of risk of the activities described in clause (i).

"(B) APPROVAL.—The Secretary shall approve or disapprove each request submitted under subparagraph (A).

"(C) COMPLIANCE WITH APPLICABLE REQUIREMENTS.—Any non-Federal funds obligated or expended under paragraph (1) shall comply with all applicable requirements, including any requirements included in the grant agreement.

"(3) EFFECT.—The obligation or expenditure of any non-Federal funds in accordance with this subsection shall not—

"(A) affect the signing of a grant agreement or other applicable grant procedures with respect to the applicable grant;

"(B) create an obligation on the part of the Federal Government to repay any non-Federal funds if the grant agreement is not signed; or

"(C) affect the ability of the recipient of the grant to obligate or expend non-Federal funds to meet the non-Federal cost share for the project for which the grant is provided after the period described in paragraph (1).";

(13) in subsection (n) (as so redesignated), by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—Not later than 60 days before the date on which a grant is provided for a project under this section, the Secretary shall submit to the Committees on Commerce, Science, and Transportation and Environment and Public Works of the Senate and the Committee on Transportation

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and Infrastructure of the House of Representatives a report describing the proposed grant, including—

"(A) an evaluation and justification for the applicable project; and

"(B) a description of the amount of the proposed grant award.";

(14) by inserting after subsection (n) (as so redesignated) the following:

"(o) APPLICANT NOTIFICATION.—

"(1) IN GENERAL.—Not later than 60 days after the date on which a grant recipient for a project under this section is selected, the Secretary shall provide to each eligible applicant not selected for that grant a written notification that the eligible applicant was not selected.

"(2) INCLUSION.—A written notification under paragraph (1) shall include an offer for a written or telephonic debrief by the Secretary that will provide—

"(A) detail on the evaluation of the application of the eligible applicant; and

"(B) an explanation of and guidance on the reasons the application was not selected for a grant under this section.

"(3) RESPONSE.—

"(A) IN GENERAL.—Not later than 30 days after the eligible applicant receives a written notification under paragraph (1), if the eligible applicant opts to receive a debrief described in paragraph (2), the eligible applicant shall notify the Secretary that the eligible applicant is requesting a debrief.

"(B) DEBRIEF.—If the eligible applicant submits a request for a debrief under subparagraph (A), the Secretary shall provide the debrief by not later than 60 days after the date on which the Secretary receives the request for a debrief."; and

(15) by striking subsection (p) (as so redesignated) and inserting the following:

"(p) REPORTS.—

"(1) ANNUAL REPORT.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, not later than 30 days after the date on which the Secretary selects a project for funding under this section, 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 reasons for selecting the project, based on any criteria established by the Secretary in accordance with this section.

"(B) INCLUSIONS.—The report submitted under subparagraph (A) shall specify each criterion established by the Secretary that the project meets.

"(C) AVAILABILITY.—The Secretary shall make available on the website of the Department of Transportation the report submitted under subparagraph (A).

"(D) APPLICABILITY.—This paragraph applies to all projects described in subparagraph (A) that the Secretary selects on or after October 1, 2021.

"(2) COMPTROLLER GENERAL.—

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"(A) ASSESSMENT.—The Comptroller General of the United States shall conduct an assessment of the establishment, solicitation, selection, and justification process with respect to the funding of projects under this section.

"(B) REPORT.—Not later than 1 year after the date of enactment of the Surface Transportation Reauthorization Act of 2021 and annually thereafter, the Comptroller General of the United States 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, for each project selected to receive funding under this section—

"(i) the process by which each project was selected;

"(ii) the factors that went into the selection of each project; and

"(iii) the justification for the selection of each project based on any criteria established by the Secretary in accordance with this section.

"(3) INSPECTOR GENERAL.—Not later than 1 year after the date of enactment of the Surface Transportation Reauthorization Act of 2021 and annually thereafter, the Inspector General of the Department of Transportation shall—

"(A) conduct an assessment of the establishment, solicitation, selection, and justification process with respect to the funding of projects under this section; and

"(B) 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 final report that describes the findings of the Inspector General of the Department of Transportation with respect to the assessment conducted under subparagraph (A).

"(q) STATE INCENTIVES PILOT PROGRAM.—

"(1) ESTABLISHMENT.—There is established a pilot program to award grants to eligible applicants for projects eligible for grants under this section (referred to in this subsection as the 'pilot program').

"(2) PRIORITY.—In awarding grants under the pilot program, the Secretary shall give priority to an application that offers a greater non-Federal share of the cost of a project relative to other applications under the pilot program.

"(3) FEDERAL SHARE.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, the Federal share of the cost of a project assisted with a grant under the pilot program may not exceed 50 percent.

"(B) NO FEDERAL INVOLVEMENT.—

"(i) IN GENERAL.—For grants awarded under the pilot program, except as provided in clause (ii), an eligible applicant may not use Federal assistance to satisfy the non-Federal share of the cost under subparagraph (A).

"(ii) EXCEPTION.—An eligible applicant may use funds from a secured loan (as defined in section 601(a)) to satisfy the non-Federal share of the cost under subparagraph (A) if the loan is repayable from non-Federal funds.

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"(4) RESERVATION.—

"(A) IN GENERAL.—Of the amounts made available to provide grants under this section, the Secretary shall reserve for each fiscal year $150,000,000 to provide grants under the pilot program.

"(B) UNUTILIZED AMOUNTS.—In any fiscal year during which applications under this subsection are insufficient to effect an award or allocation of the entire amount reserved under subparagraph (A), the Secretary shall use the unutilized amounts to provide other grants under this section.

"(5) SET-ASIDES.—

"(A) SMALL PROJECTS.—

"(i) IN GENERAL.—Of the amounts reserved under paragraph (4)(A), the Secretary shall reserve for each fiscal year not less than 10 percent for projects eligible for a grant under subsection (e).

"(ii) REQUIREMENT.—For a grant awarded from the amount reserved under clause (i)—

"(I) the requirements of subsection (e) shall apply; and

"(II) the requirements of subsection (g) shall not apply.

"(B) RURAL PROJECTS.—

"(i) IN GENERAL.—Of the amounts reserved under paragraph (4)(A), the Secretary shall reserve for each fiscal year not less than 25 percent for projects eligible for a grant under subsection (i).

"(ii) REQUIREMENT.—For a grant awarded from the amount reserved under clause (i), the requirements of subsection (i) shall apply.

"(6) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall submit to the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the administration of the pilot program, including—

"(A) the number, types, and locations of eligible applicants that have applied for grants under the pilot program;

"(B) the number, types, and locations of grant recipients under the pilot program;

"(C) an assessment of whether implementation of the pilot program has incentivized eligible applicants to offer a greater non-Federal share for grants under the pilot program; and

"(D) any recommendations for modifications to the pilot program.

"(r) MULTISTATE CORRIDOR ORGANIZATION DEFINED.—For purposes of this section, the term 'multistate corridor organization' means an organization of a group of States developed through cooperative agreements, coalitions, or other arrangements to promote regional cooperation, planning, and shared project implementation for programs and projects to improve transportation system management and operations for a shared transportation corridor.

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"(s) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts made available from the Highway Trust Fund, there are authorized to be appropriated to carry out this section, to remain available for a period of 3 fiscal years following the fiscal year for which the amounts are appropriated—

"(1) $1,000,000,000 for fiscal year 2022;
"(2) $1,100,000,000 for fiscal year 2023;
"(3) $1,200,000,000 for fiscal year 2024;
"(4) $1,300,000,000 for fiscal year 2025; and
"(5) $1,400,000,000 for fiscal year 2026.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 117 and inserting the following:

"117. Nationally significant multimodal freight and highway projects.".

(c) EFFICIENT USE OF NON-FEDERAL FUNDS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in the case of a grant described in paragraph (2), section 117(k) of title 23, United States Code, shall apply to the grant as if the grant was a grant provided under that section.

(2) GRANT DESCRIBED.—A grant referred to in paragraph (1) is a grant that is—

(A) provided under a competitive discretionary grant program administered by the Federal Highway Administration;

(B) for a project eligible under title 23, United States Code; and

(C) in an amount greater than $5,000,000.

SEC. 11111. HIGHWAY SAFETY IMPROVEMENT PROGRAM.

(a) IN GENERAL.—Section 148 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (4)(B)—

(i) in clause (i), by inserting "that provides for the safety of all road users, as appropriate, including a multimodal roundabout" after "improvement";

(ii) in clause (vi), by inserting "or a grade separation project" after "devices";

(iii) by striking clause (viii) and inserting the following:

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

(iv) by striking clause (xxvi) and inserting the following:

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

(v) by striking clauses (xxvii) and (xxviii) and inserting the following:

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

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

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

(B) by redesignating paragraphs (9) through (12) as paragraphs (10), (12), (13), and (14), respectively;

(C) by inserting after paragraph (8) the following:

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

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

"(B) that—

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

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

"(iii) takes into consideration vulnerable road users.";

(D) by inserting after paragraph (10) (as so redesignated) the following:

"(11) SPECIFIED SAFETY PROJECT.—

"(A) IN GENERAL.—The term 'specified safety project' means a project carried out for the purpose of safety under any other section of this title that is consistent with the State strategic highway safety plan.

"(B) INCLUSION.—The term 'specified safety project' includes a project that—

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

"(ii) facilitates enforcement of traffic safety laws;

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

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

"(v) supports safe routes to school noninfrastructure-related activities described in section 208(g)(2).";

(E) in paragraph (13) (as so redesignated)—

(i) by redesignating subparagraphs (G), (H), and (I) as subparagraphs (H), (I), and (J), respectively; and

(ii) by inserting after subparagraph (F) the following;

"(G) includes a vulnerable road user safety assessment;"; and

(F) by adding at the end the following:

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

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

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

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

(2) in subsection (c)—

(A) in paragraph (1)(A), by striking "subsections (a)(11)" and inserting "subsections (a)(13)"; and

(B) in paragraph (2)—

(i) in subparagraph (A)(vi), by inserting "and to differentiate the safety data for vulnerable road users, including bicyclists, motorcyclists, and pedestrians, from other road users" after "crashes";

(ii) in subparagraph (B)(i), by striking "(including motorcyclists), bicyclists, pedestrians," and inserting ", vulnerable road users (including motorcyclists, bicyclists, pedestrians),"; and

(iii) in subparagraph (D)—

(I) in clause (iv), by striking "and" at the end;

(II) in clause (v), by striking the semicolon at the end and inserting "; and"; and

(III) by adding at the end the following:

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

(3) in subsection (d)(2)(B)(i), by striking "subsection (a)(11)" and inserting "subsection (a)(13)";

(4) in subsection (e), by adding at the end the following:

"(3) FLEXIBLE FUNDING FOR SPECIFIED SAFETY PROJECTS.—

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

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

"(C) EFFECT OF PARAGRAPH.—

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

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

(5) in subsection (g), by adding at the end the following:

"(3) VULNERABLE ROAD USER SAFETY.—If the total annual fatalities of vulnerable road users in a State represents not less than 15 percent of the total annual crash fatalities in the State, that State shall be required to obligate not less than 15 percent of the amounts apportioned to the State under

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section 104(b)(3) for the following fiscal year for highway safety improvement projects to address the safety of vulnerable road users."; and

(6) by adding at the end the following:

"(l) VULNERABLE ROAD USER SAFETY ASSESSMENT.—

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

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

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

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

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

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

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

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

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

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

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

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

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

"(7) GUIDANCE.—

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

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

(b) HIGH-RISK RURAL ROADS.—

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

(2) PUBLICATION OF REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall publish on the website of the Department of Transportation an update

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to the report described in section 1112(b)(2) of MAP–21 (23 U.S.C. 148 note; Public Law 112–141).

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

SEC. 11112. FEDERAL LANDS TRANSPORTATION PROGRAM.

Section 203(a) of title 23, United States Code, is amended—

(1) in paragraph (1)(D), by striking "$10,000,000" and inserting "$20,000,000"; and

(2) by adding at the end the following:

"(6) NATIVE PLANT MATERIALS.—In carrying out an activity described in paragraph (1), the entity carrying out the activity shall consider, to the maximum extent practicable—

"(A) the use of locally adapted native plant materials; and

"(B) designs that minimize runoff and heat generation.".

SEC. 11113. FEDERAL LANDS ACCESS PROGRAM.

(a) FEDERAL SHARE.—Section 201 of title 23, United States Code, is amended—

(1) in subsection (b)(7)(B), by striking "determined in accordance with section 120", and inserting "be up to 100 percent"; and

(2) in subsection (c)(8)(A), by striking "5 percent" and inserting "20 percent".

(b) FEDERAL LANDS ACCESS PROGRAM.—Section 204(a) of title 23, United States Code, is amended—

(1) in paragraph (1)(A)—

(A) in the matter preceding clause (i), by inserting "context-sensitive solutions," after "restoration,";

(B) in clause (i), by inserting ", including interpretive panels in or adjacent to those areas" after "areas";

(C) in clause (v), by striking "and" at the end;

(D) by redesignating clause (vi) as clause (ix); and

(E) by inserting after clause (v) the following:

"(vi) contextual wayfinding markers;

"(vii) landscaping;

"(viii) cooperative mitigation of visual blight, including screening or removal; and"; and

(2) by adding at the end the following:

"(6) NATIVE PLANT MATERIALS.—In carrying out an activity described in paragraph (1), the Secretary shall ensure that the entity carrying out the activity considers, to the maximum extent practicable—

"(A) the use of locally adapted native plant materials; and

"(B) designs that minimize runoff and heat generation.".

SEC. 11114. NATIONAL HIGHWAY FREIGHT PROGRAM.

Section 167 of title 23, United States Code, is amended—

(1) in subsection (e)—

(A) in paragraph (2), by striking "150 miles" and inserting "300 miles"; and

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(B) by adding at the end the following:

"(3) RURAL STATES.—Notwithstanding paragraph (2), a State with a population per square mile of area that is less than the national average, based on the 2010 census, may 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.";

(2) in subsection (f)(4), by striking "75 miles" and inserting "150 miles"; and

(3) in subsection (i)(5)(B)—

(A) in the matter preceding clause (i), by striking "10 percent" and inserting "30 percent";

(B) in clause (i), by striking "and" at the end;

(C) in clause (ii), by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following:

"(iii) for the modernization or rehabilitation of a lock and dam, if the Secretary determines that the project—

"(I) is functionally connected to the National Highway Freight Network; and

"(II) is likely to reduce on-road mobile source emissions; and

"(iv) on a marine highway corridor, connector, or crossing designated by the Secretary under section 55601(c) of title 46 (including an inland waterway corridor, connector, or crossing), if the Secretary determines that the project—

"(I) is functionally connected to the National Highway Freight Network; and

"(II) is likely to reduce on-road mobile source emissions.".

SEC. 11115. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

Section 149 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "subsection (d)" and inserting "subsections (d) and (m)(1)(B)(ii)"

(B) in paragraph (7), by inserting "shared micromobility (including bikesharing and shared scooter systems)," after "carsharing,";

(C) in paragraph (8)—

(i) in subparagraph (A)—

(I) in the matter preceding clause (i), by inserting "replacements or" before "retrofits";

(II) by striking clause (i) and inserting the following:

"(i) verified technologies (as defined in section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131)) for motor vehicles (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); or"; and

(III) in clause (ii)(II), by striking "or" at the end; and

(ii) in subparagraph (B), by inserting "replacements or" before "retrofits"; and

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(iii) by adding at the end the following:

"(C) the purchase of medium- or heavy-duty zero emission vehicles and related charging equipment;";

(D) in paragraph (9), by striking the period at the end and inserting a semicolon; and

(E) by adding at the end the following:

"(10) if the project is for the modernization or rehabilitation of a lock and dam that—

"(A) is functionally connected to the Federal-aid highway system; and

"(B) the Secretary determines is likely to contribute to the attainment or maintenance of a national ambient air quality standard; or

"(11) if the project is on a marine highway corridor, connector, or crossing designated by the Secretary under section 55601(c) of title 46 (including an inland waterway corridor, connector, or crossing) that—

"(A) is functionally connected to the Federal-aid highway system; and

"(B) the Secretary determines is likely to contribute to the attainment or maintenance of a national ambient air quality standard.";

(2) in subsection (c), by adding at the end the following:

"(4) LOCKS AND DAMS; MARINE HIGHWAYS.—For each fiscal year, a State may not obligate more than 10 percent of the funds apportioned to the State under section 104(b)(4) for projects described in paragraphs (10) and (11) of subsection (b).";

(3) in subsection (f)(4)(A), by inserting "and nonroad vehicles and nonroad engines used in construction projects or port-related freight operations" after "motor vehicles";

(4) in subsection (g)—

(A) in paragraph (1)(B)—

(i) in the subparagraph heading, by inserting "REPLACEMENT OR" before "RETROFIT";

(ii) by striking "The term 'diesel retrofit'" and inserting "The term 'diesel replacement or retrofit'"; and

(iii) by inserting "or retrofit" after "replacement";

(B) in paragraph (2), in the matter preceding subparagraph (A), by inserting "replacement or" before "retrofit"; and

(C) in paragraph (3), by inserting "replacements or" before "retrofits";

(5) in subsection (k)(1), by striking "that reduce such fine particulate matter emissions in such area, including diesel retrofits." and inserting "that—

"(A) reduce such fine particulate matter emissions in such area, including diesel replacements or retrofits; and

"(B) to the extent practicable, prioritize benefits to disadvantaged communities or low-income populations living in, or immediately adjacent to, such area.";

(6) in subsection (l), by adding at the following:

"(3) ASSISTANCE TO METROPOLITAN PLANNING ORGANIZATIONS.—

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"(A) IN GENERAL.—On the request of a metropolitan planning organization, the Secretary may assist the metropolitan planning organization tracking progress made in minority or low-income populations as part of a performance plan under this subsection.

"(B) SAVINGS PROVISION.—Nothing in this paragraph provides the Secretary the authority—

"(i) to change the performance measures under section 150(c)(5) or the performance targets established under section 134(h)(2) or 150(d); or

"(ii) to establish any other Federal requirement."; and

(7) by striking subsection (m) and inserting the following: "(m) OPERATING ASSISTANCE.—

"(1) IN GENERAL.—A State may obligate funds apportioned under section 104(b)(4) in an area of the State that is otherwise eligible for obligations of such funds for operating costs—

"(A) under chapter 53 of title 49; or

"(B) on—

"(i) a system for which CMAQ funding was eligible, made available, obligated, or expended in fiscal year 2012; or

"(ii) a State-supported Amtrak route with a valid cost-sharing agreement under section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note; Public Law 110–432) and no current nonattainment areas under subsection (d).

"(2) NO TIME LIMITATION.—Operating assistance provided under paragraph (1) shall have no imposed time limitation if the operating assistance is for—

"(A) a route described in subparagraph (B) of that paragraph; or

"(B) a transit system that is located in—

"(i) a non-urbanized area; or

"(ii) an urbanized area with a population of 200,000 or fewer.".

SEC. 11116. ALASKA HIGHWAY.

Section 218 of title 23, United States Code, is amended to read as follows:

"§ 218. Alaska Highway

"(a) Recognizing the benefits that will accrue to the State of Alaska and to the United States from the reconstruction of the Alaska Highway from the Alaskan border at Beaver Creek, Yukon Territory, to Haines Junction in Canada and the Haines Cutoff Highway from Haines Junction in Canada to Haines, Alaska, the Secretary may provide for the necessary reconstruction of the highway using funds awarded through an applicable competitive grant program, if the highway meets all applicable eligibility requirements for the program, except for the specific requirements established by the agreement for the Alaska Highway Project between the Government of the United States and the Government of Canada. In addition to the funds described in the previous sentence, notwithstanding any other provision of law and on agreement with the State of Alaska, the Secretary is authorized to expend on such highway or the Alaska Marine Highway System

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any Federal-aid highway funds apportioned to the State of Alaska under this title at a Federal share of 100 per centum. No expenditures shall be made for the construction of the portion of such highways that are in Canada unless an agreement is in place between the Government of Canada and the Government of the United States (including an agreement in existence on the date of enactment of the Surface Transportation Reauthorization Act of 2021) that provides, in part, that the Canadian Government—

"(1) will provide, without participation of funds authorized under this title, all necessary right-of-way for the reconstruction of such highways;

"(2) will not impose any highway toll, or permit any such toll to be charged for the use of such highways by vehicles or persons;

"(3) will not levy or assess, directly or indirectly, any fee, tax, or other charge for the use of such highways by vehicles or persons from the United States that does not apply equally to vehicles or persons of Canada;

"(4) will continue to grant reciprocal recognition of vehicle registration and driver's licenses in accordance with agreements between the United States and Canada; and

"(5) will maintain such highways after their completion in proper condition adequately to serve the needs of present and future traffic.

"(b) The survey and construction work undertaken in Canada pursuant to this section shall be under the general supervision of the Secretary.

"(c) For purposes of this section, the term 'Alaska Marine Highway System' includes all existing or planned transportation facilities and equipment in Alaska, including the lease, purchase, or construction of vessels, terminals, docks, floats, ramps, staging areas, parking lots, bridges and approaches thereto, and necessary roads.

"(d) Notwithstanding any other provision of law, a project assisted under this section in the State of Alaska shall be treated as a project on a Federal-aid highway under chapter 1.".

SEC. 11117. TOLL ROADS, BRIDGES, TUNNELS, AND FERRIES.

(a) IN GENERAL.—Section 129(c) of title 23, United States Code, is amended in the matter preceding paragraph (1) by striking "the construction of ferry boats and ferry terminal facilities, whether toll or free," and inserting "the construction of ferry boats and ferry terminal facilities (including ferry maintenance facilities), whether toll or free, and the procurement of transit vehicles used exclusively as an integral part of an intermodal ferry trip,".

(b) DIESEL FUEL FERRY VESSELS.—

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

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

SEC. 11118. BRIDGE INVESTMENT PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by inserting after section 123 the following:

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"§ 124. Bridge investment program

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE PROJECT.—

"(A) IN GENERAL.—The term 'eligible project' means a project to replace, rehabilitate, preserve, or protect 1 or more bridges on the National Bridge Inventory under section 144(b).

"(B) INCLUSIONS.—The term 'eligible project' includes—

"(i) a bundle of projects described in subparagraph (A), regardless of whether the bundle of projects meets the requirements of section 144(j)(5); and

"(ii) a project to replace or rehabilitate culverts for the purpose of improving flood control and improved habitat connectivity for aquatic species.

"(2) LARGE PROJECT.—The term 'large project' means an eligible project with total eligible project costs of greater than $100,000,000.

"(3) PROGRAM.—The term 'program' means the bridge investment program established by subsection (b)(1).

"(b) ESTABLISHMENT OF BRIDGE INVESTMENT PROGRAM.—

"(1) IN GENERAL.—There is established a bridge investment program to provide financial assistance for eligible projects under this section.

"(2) GOALS.—The goals of the program shall be—

"(A) to improve the safety, efficiency, and reliability of the movement of people and freight over bridges;

"(B) to improve the condition of bridges in the United States by reducing—

"(i) the number of bridges—

"(I) in poor condition; or

"(II) in fair condition and at risk of falling into poor condition within the next 3 years;

"(ii) the total person miles traveled over bridges—

"(I) in poor condition; or

"(II) in fair condition and at risk of falling into poor condition within the next 3 years;

"(iii) the number of bridges that—

"(I) do not meet current geometric design standards; or

"(II) cannot meet the load and traffic requirements typical of the regional transportation network; and

"(iv) the total person miles traveled over bridges that—

"(I) do not meet current geometric design standards; or

"(II) cannot meet the load and traffic requirements typical of the regional transportation network; and

"(C) to provide financial assistance that leverages and encourages non-Federal contributions from sponsors and stakeholders involved in the planning, design, and construction of eligible projects.

"(c) GRANT AUTHORITY.—

"(1) IN GENERAL.—In carrying out the program, the Secretary may award grants, on a competitive basis, in accordance with this section.

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"(2) GRANT AMOUNTS.—Except as otherwise provided, a grant under the program shall be—

"(A) in the case of a large project, in an amount that is—

"(i) adequate to fully fund the project (in combination with other financial resources identified in the application); and

"(ii) not less than $50,000,000; and

"(B) in the case of any other eligible project, in an amount that is—

"(i) adequate to fully fund the project (in combination with other financial resources identified in the application); and

"(ii) not less than $2,500,000.

"(3) MAXIMUM AMOUNT.—Except as otherwise provided, for an eligible project receiving assistance under the program, the amount of assistance provided by the Secretary under this section, as a share of eligible project costs, shall be—

"(A) in the case of a large project, not more than 50 percent; and

"(B) in the case of any other eligible project, not more than 80 percent.

"(4) FEDERAL SHARE.—

"(A) MAXIMUM FEDERAL INVOLVEMENT.—Federal assistance other than a grant under the program may be used to satisfy the non-Federal share of the cost of a project for which a grant is made, except that the total Federal assistance provided for a project receiving a grant under the program may not exceed the Federal share for the project under section 120.

"(B) OFF-SYSTEM BRIDGES.—In the case of an eligible project for an off-system bridge (as defined in section 133(f)(1))—

"(i) Federal assistance other than a grant under the program may be used to satisfy the non-Federal share of the cost of a project; and

"(ii) notwithstanding subparagraph (A), the total Federal assistance provided for the project shall not exceed 90 percent of the total eligible project costs.

"(C) FEDERAL LAND MANAGEMENT AGENCIES AND TRIBAL GOVERNMENTS.—Notwithstanding any other provision of law, Federal funds other than Federal funds made available under this section may be used to pay the remaining share of the cost of a project under the program by a Federal land management agency or a Tribal government or consortium of Tribal governments.

"(5) CONSIDERATIONS.—

"(A) IN GENERAL.—In awarding grants under the program, the Secretary shall consider—

"(i) in the case of a large project, the ratings assigned under subsection (g)(5)(A);

"(ii) in the case of an eligible project other than a large project, the quality rating assigned under subsection (f)(3)(A)(ii);

"(iii) the average daily person and freight throughput supported by the eligible project;

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"(iv) the number and percentage of bridges within the same State as the eligible project that are in poor condition;

"(v) the extent to which the eligible project demonstrates cost savings by bundling multiple bridge projects;

"(vi) in the case of an eligible project of a Federal land management agency, the extent to which the grant would reduce a Federal liability or Federal infrastructure maintenance backlog;

"(vii) geographic diversity among grant recipients, including the need for a balance between the needs of rural and urban communities; and

"(viii) the extent to which a bridge that would be assisted with a grant—

"(I) is, without that assistance—

"(aa) at risk of falling into or remaining in poor condition; or

"(bb) in fair condition and at risk of falling into poor condition within the next 3 years;

"(II) does not meet current geometric design standards based on—

"(aa) the current use of the bridge; or

"(bb) load and traffic requirements typical of the regional corridor or local network in which the bridge is located; or

"(III) does not meet current seismic design standards.

"(B) REQUIREMENT.—The Secretary shall—

"(i) give priority to an application for an eligible project that is located within a State for which—

"(I) 2 or more applications for eligible projects within the State were submitted for the current fiscal year and an average of 2 or more applications for eligible projects within the State were submitted in prior fiscal years of the program; and

"(II) fewer than 2 grants have been awarded for eligible projects within the State under the program;

"(ii) during the period of fiscal years 2022 through 2026, for each State described in clause (i), select—

"(I) not fewer than 1 large project that the Secretary determines is justified under the evaluation under subsection (g)(4); or

"(II) 2 eligible projects that are not large projects that the Secretary determines are justified under the evaluation under subsection (f)(3); and

"(iii) not be required to award a grant for an eligible project that the Secretary does not determine is justified under an evaluation under subsection (f)(3) or (g)(4).

"(6) CULVERT LIMITATION.—Not more than 5 percent of the amounts made available for each fiscal year for grants under the program may be used for eligible projects that consist solely of culvert replacement or rehabilitation.

"(d) ELIGIBLE ENTITY.—The Secretary may make a grant under the program to any of the following:

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"(1) A State or a group of States.

"(2) A metropolitan planning organization that serves an urbanized area (as designated by the Bureau of the Census) with a population of over 200,000.

"(3) A unit of local government or a group of local governments.

"(4) A political subdivision of a State or local government.

"(5) A special purpose district or public authority with a transportation function.

"(6) A Federal land management agency.

"(7) A Tribal government or a consortium of Tribal governments.

"(8) A multistate or multijurisdictional group of entities described in paragraphs (1) through (7).

"(e) ELIGIBLE PROJECT REQUIREMENTS.—The Secretary may make a grant under the program only to an eligible entity for an eligible project that—

"(1) in the case of a large project, the Secretary recommends for funding in the annual report on funding recommendations under subsection (g)(6), except as provided in subsection (g)(1)(B);

"(2) is reasonably expected to begin construction not later than 18 months after the date on which funds are obligated for the project; and

"(3) is based on the results of preliminary engineering.

"(f) COMPETITIVE PROCESS AND EVALUATION OF ELIGIBLE PROJECTS OTHER THAN LARGE PROJECTS.—

"(1) COMPETITIVE PROCESS.—

"(A) IN GENERAL.—The Secretary shall—

"(i) for the first fiscal year for which funds are made available for obligation under the program, not later than 60 days after the date on which the template under subparagraph (B)(i) is developed, and in subsequent fiscal years, not later than 60 days after the date on which amounts are made available for obligation under the program, solicit grant applications for eligible projects other than large projects; and

"(ii) not later than 120 days after the date on which the solicitation under clause (i) expires, conduct evaluations under paragraph (3).

"(B) REQUIREMENTS.—In carrying out subparagraph (A), the Secretary shall—

"(i) develop a template for applicants to use to summarize project needs and benefits, including benefits described in paragraph (3)(B)(i); and

"(ii) enable applicants to use data from the National Bridge Inventory under section 144(b) to populate templates described in clause (i), as applicable.

"(2) APPLICATIONS.—An eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(3) EVALUATION.—

"(A) IN GENERAL.—Prior to providing a grant under this subsection, the Secretary shall—

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"(i) conduct an evaluation of each eligible project for which an application is received under this subsection; and

"(ii) assign a quality rating to the eligible project on the basis of the evaluation under clause (i).

"(B) REQUIREMENTS.—In carrying out an evaluation under subparagraph (A), the Secretary shall—

"(i) consider information on project benefits submitted by the applicant using the template developed under paragraph (1)(B)(i), including whether the project will generate, as determined by the Secretary—

"(I) costs avoided by the prevention of closure or reduced use of the bridge to be improved by the project;

"(II) in the case of a bundle of projects, benefits from executing the projects as a bundle compared to as individual projects;

"(III) safety benefits, including the reduction of accidents and related costs;

"(IV) person and freight mobility benefits, including congestion reduction and reliability improvements;

"(V) national or regional economic benefits;

"(VI) benefits from long-term resiliency to extreme weather events, flooding, or other natural disasters;

"(VII) benefits from protection (as described in section 133(b)(10)), including improving seismic or scour protection;

"(VIII) environmental benefits, including wildlife connectivity;

"(IX) benefits to nonvehicular and public transportation users;

"(X) benefits of using—

"(aa) innovative design and construction techniques; or

"(bb) innovative technologies; or

"(XI) reductions in maintenance costs, including, in the case of a federally-owned bridge, cost savings to the Federal budget; and

"(ii) consider whether and the extent to which the benefits, including the benefits described in clause (i), are more likely than not to outweigh the total project costs.

"(g) COMPETITIVE PROCESS, EVALUATION, AND ANNUAL REPORT FOR LARGE PROJECTS.—

"(1) IN GENERAL.—

"(A) APPLICATIONS.—The Secretary shall establish an annual date by which an eligible entity submitting an application for a large project shall submit to the Secretary such information as the Secretary may require, including information described in paragraph (2), in order for a large project to be considered for a recommendation by the Secretary for funding in the next annual report under paragraph (6).

"(B) FIRST FISCAL YEAR.—Notwithstanding subparagraph (A), for the first fiscal year for which funds are

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made available for obligation for grants under the program, the Secretary may establish a date by which an eligible entity submitting an application for a large project shall submit to the Secretary such information as the Secretary may require, including information described in paragraph (2), in order for a large project to be considered for immediate execution of a grant agreement.

"(2) INFORMATION REQUIRED.—The information referred to in paragraph (1) includes—

"(A) all necessary information required for the Secretary to evaluate the large project; and

"(B) information sufficient for the Secretary to determine that—

"(i) the large project meets the applicable requirements under this section; and

"(ii) there is a reasonable likelihood that the large project will continue to meet the requirements under this section.

"(3) DETERMINATION; NOTICE.—On making a determination that information submitted to the Secretary under paragraph (1) is sufficient, the Secretary shall provide a written notice of that determination to—

"(A) the eligible entity that submitted the application;

"(B) the Committee on Environment and Public Works of the Senate; and

"(C) the Committee on Transportation and Infrastructure of the House of Representatives.

"(4) EVALUATION.—The Secretary may recommend a large project for funding in the annual report under paragraph (6), or, in the case of the first fiscal year for which funds are made available for obligation for grants under the program, immediately execute a grant agreement for a large project, only if the Secretary evaluates the proposed project and determines that the project is justified because the project—

"(A) addresses a need to improve the condition of the bridge, as determined by the Secretary, consistent with the goals of the program under subsection (b)(2);

"(B) will generate, as determined by the Secretary—

"(i) costs avoided by the prevention of closure or reduced use of the bridge to be improved by the project;

"(ii) in the case of a bundle of projects, benefits from executing the projects as a bundle compared to as individual projects;

"(iii) safety benefits, including the reduction of accidents and related costs;

"(iv) person and freight mobility benefits, including congestion reduction and reliability improvements;

"(v) national or regional economic benefits;

"(vi) benefits from long-term resiliency to extreme weather events, flooding, or other natural disasters;

"(vii) benefits from protection (as described in section 133(b)(10)), including improving seismic or scour protection;

"(viii) environmental benefits, including wildlife connectivity;

"(ix) benefits to nonvehicular and public transportation users;

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"(x) benefits of using—

"(I) innovative design and construction techniques; or

"(II) innovative technologies; or

"(xi) reductions in maintenance costs, including, in the case of a federally-owned bridge, cost savings to the Federal budget;

"(C) is cost effective based on an analysis of whether the benefits and avoided costs described in subparagraph (B) are expected to outweigh the project costs;

"(D) is supported by other Federal or non-Federal financial commitments or revenues adequate to fund ongoing maintenance and preservation; and

"(E) is consistent with the objectives of an applicable asset management plan of the project sponsor, including a State asset management plan under section 119(e) in the case of a project on the National Highway System that is sponsored by a State.

"(5) RATINGS.—

"(A) IN GENERAL.—The Secretary shall develop a methodology to evaluate and rate a large project on a 5-point scale (the points of which include 'high', 'medium-high', 'medium', 'medium-low', and 'low') for each of—

"(i) paragraph (4)(B);

"(ii) paragraph (4)(C); and

"(iii) paragraph (4)(D).

"(B) REQUIREMENT.—To be considered justified and receive a recommendation for funding in the annual report under paragraph (6), a project shall receive a rating of not less than 'medium' for each rating required under subparagraph (A).

"(C) INTERIM METHODOLOGY.—In the first fiscal year for which funds are made available for obligation for grants under the program, the Secretary may establish an interim methodology to evaluate and rate a large project for each of—

"(i) paragraph (4)(B);

"(ii) paragraph (4)(C); and

"(iii) paragraph (4)(D).

"(6) ANNUAL REPORT ON FUNDING RECOMMENDATIONS FOR LARGE PROJECTS.—

"(A) IN GENERAL.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Environment and Public Works and Appropriations of the Senate a report that includes—

"(i) a list of large projects that have requested a recommendation for funding under a new grant agreement from funds anticipated to be available to carry out this subsection in the next fiscal year;

"(ii) the evaluation under paragraph (4) and ratings under paragraph (5) for each project referred to in clause (i);

"(iii) the grant amounts that the Secretary recommends providing to large projects in the next fiscal year, including—

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"(I) scheduled payments under previously signed multiyear grant agreements under subsection (j);

"(II) payments for new grant agreements, including single-year grant agreements and multiyear grant agreements; and

"(III) a description of how amounts anticipated to be available for the program from the Highway Trust Fund for that fiscal year will be distributed; and

"(iv) for each project for which the Secretary recommends a new multiyear grant agreement under subsection (j), the proposed payout schedule for the project.

"(B) LIMITATIONS.—

"(i) IN GENERAL.—The Secretary shall not recommend in an annual report under this paragraph a new multiyear grant agreement provided from funds from the Highway Trust Fund unless the Secretary determines that the project can be completed using funds that are anticipated to be available from the Highway Trust Fund in future fiscal years.

"(ii) GENERAL FUND PROJECTS.—The Secretary—

"(I) may recommend for funding in an annual report under this paragraph a large project using funds from the general fund of the Treasury; but

"(II) shall not execute a grant agreement for that project unless—

"(aa) funds other than from the Highway Trust Fund have been made available for the project; and

"(bb) the Secretary determines that the project can be completed using funds other than from the Highway Trust Fund that are anticipated to be available in future fiscal years.

"(C) CONSIDERATIONS.—In selecting projects to recommend for funding in the annual report under this paragraph, or, in the case of the first fiscal year for which funds are made available for obligation for grants under the program, projects for immediate execution of a grant agreement, the Secretary shall—

"(i) consider the amount of funds available in future fiscal years for multiyear grant agreements as described in subparagraph (B); and

"(ii) assume the availability of funds in future fiscal years for multiyear grant agreements that extend beyond the period of authorization based on the amount made available for large projects under the program in the last fiscal year of the period of authorization.

"(D) PROJECT DIVERSITY.—In selecting projects to recommend for funding in the annual report under this paragraph, the Secretary shall ensure diversity among projects recommended based on—

"(i) the amount of the grant requested; and

"(ii) grants for an eligible project for 1 bridge compared to an eligible project that is a bundle of projects.

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"(h) ELIGIBLE PROJECT COSTS.—A grant received for an eligible project under the program may be used for—

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

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

"(3) expenses related to the protection (as described in section 133(b)(10)) of a bridge, including seismic or scour protection.

"(i) TIFIA PROGRAM.—On the request of an eligible entity carrying out an eligible project, the Secretary may use amounts awarded to the entity to pay subsidy and administrative costs necessary to provide to the entity Federal credit assistance under chapter 6 with respect to the eligible project for which the grant was awarded.

"(j) MULTIYEAR GRANT AGREEMENTS FOR LARGE PROJECTS.—

"(1) IN GENERAL.—A large project that receives a grant under the program in an amount of not less than $100,000,000 may be carried out through a multiyear grant agreement in accordance with this subsection.

"(2) REQUIREMENTS.—A multiyear grant agreement for a large project described in paragraph (1) shall—

"(A) establish the terms of participation by the Federal Government in the project;

"(B) establish the maximum amount of Federal financial assistance for the project in accordance with paragraphs (3) and (4) of subsection (c);

"(C) establish a payout schedule for the project that provides for disbursement of the full grant amount by not later than 4 fiscal years after the fiscal year in which the initial amount is provided;

"(D) determine the period of time for completing the project, even if that period extends beyond the period of an authorization; and

"(E) attempt to improve timely and efficient management of the project, consistent with all applicable Federal laws (including regulations).

"(3) SPECIAL FINANCIAL RULES.—

"(A) IN GENERAL.—A multiyear grant agreement under this subsection—

"(i) shall obligate an amount of available budget authority specified in law; and

"(ii) may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.

"(B) STATEMENT OF CONTINGENT COMMITMENT.—The agreement shall state that the contingent commitment is not an obligation of the Federal Government.

"(C) INTEREST AND OTHER FINANCING COSTS.—

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"(i) IN GENERAL.—Interest and other financing costs of carrying out a part of the project within a reasonable time shall be considered a cost of carrying out the project under a multiyear grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing.

"(ii) CERTIFICATION.—The applicant shall certify to the Secretary that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

"(4) ADVANCE PAYMENT.—Notwithstanding any other provision of law, an eligible entity carrying out a large project under a multiyear grant agreement—

"(A) may use funds made available to the eligible entity under this title for eligible project costs of the large project until the amount specified in the multiyear grant agreement for the project for that fiscal year becomes available for obligation; and

"(B) if the eligible entity uses funds as described in subparagraph (A), the funds used shall be reimbursed from the amount made available under the multiyear grant agreement for the project.

"(k) UNDERTAKING PARTS OF PROJECTS IN ADVANCE UNDER LETTERS OF NO PREJUDICE.—

"(1) IN GENERAL.—The Secretary may pay to an applicant all eligible project costs under the program, including costs for an activity for an eligible project incurred prior to the date on which the project receives funding under the program if—

"(A) before the applicant carries out the activity, the Secretary approves through a letter to the applicant the activity in the same manner as the Secretary approves other activities as eligible under the program;

"(B) a record of decision, a finding of no significant impact, or a categorical exclusion under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued for the eligible project; and

"(C) the activity is carried out without Federal assistance and in accordance with all applicable procedures and requirements.

"(2) INTEREST AND OTHER FINANCING COSTS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the cost of carrying out an activity for an eligible project includes the amount of interest and other financing costs, including any interest earned and payable on bonds, to the extent interest and other financing costs are expended in carrying out the activity for the eligible project, except that interest and other financing costs may not be more than the cost of the most favorable financing terms reasonably available for the eligible project at the time of borrowing.

"(B) CERTIFICATION.—The applicant shall certify to the Secretary that the applicant has shown reasonable diligence in seeking the most favorable financing terms under subparagraph (A).

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"(3) NO OBLIGATION OR INFLUENCE ON RECOMMENDATIONS.—An approval by the Secretary under paragraph (1)(A) shall not—

"(A) constitute an obligation of the Federal Government; or

"(B) alter or influence any evaluation under subsection (f)(3)(A)(i) or (g)(4) or any recommendation by the Secretary for funding under the program.

"(l) FEDERALLY-OWNED BRIDGES.—

"(1) DIVESTITURE CONSIDERATION.—In the case of a bridge owned by a Federal land management agency for which that agency applies for a grant under the program, the agency—

"(A) shall consider options to divest the bridge to a State or local entity after completion of the project; and

"(B) may apply jointly with the State or local entity to which the bridge may be divested.

"(2) TREATMENT.—Notwithstanding any other provision of law, section 129 shall apply to a bridge that was previously owned by a Federal land management agency and has been transferred to a non-Federal entity under paragraph (1) in the same manner as if the bridge was never federally owned.

"(m) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, a project assisted under this section shall be treated as a project on a Federal-aid highway under this chapter.

"(n) CONGRESSIONAL NOTIFICATION.—Not later than 30 days before making a grant for an eligible project under the program, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a written notification of the proposed grant that includes—

"(1) an evaluation and justification for the eligible project; and

"(2) the amount of the proposed grant.

"(o) REPORTS.—

"(1) ANNUAL REPORT.—Not later than August 1 of each fiscal year, the Secretary shall make available on the website of the Department of Transportation an annual report that lists each eligible project for which a grant has been provided under the program during the fiscal year.

"(2) GAO ASSESSMENT AND REPORT.—Not later than 3 years after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Comptroller General of the United States shall—

"(A) conduct an assessment of the administrative establishment, solicitation, selection, and justification process with respect to the funding of grants under the program; and

"(B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes—

"(i) the adequacy and fairness of the process under which each eligible project that received a grant under the program was selected; and

"(ii) the justification and criteria used for the selection of each eligible project.

"(p) LIMITATION.—

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"(1) LARGE PROJECTS.—Of the amounts made available out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section for each of fiscal years 2022 through 2026, not less than 50 percent, in aggregate, shall be used for large projects.

"(2) UNUTILIZED AMOUNTS.—If, in fiscal year 2026, the Secretary determines that grants under the program will not allow for the requirement under paragraph (1) to be met, the Secretary shall use the unutilized amounts to make other grants under the program during that fiscal year.

"(q) TRIBAL TRANSPORTATION FACILITY BRIDGE SET ASIDE.—

"(1) IN GENERAL.—Of the amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for a fiscal year to carry out this section, the Secretary shall use, to carry out section 202(d)—

"(A) $16,000,000 for fiscal year 2022;
"(B) $18,000,000 for fiscal year 2023;
"(C) $20,000,000 for fiscal year 2024;
"(D) $22,000,000 for fiscal year 2025; and
"(E) $24,000,000 for fiscal year 2026.

"(2) TREATMENT.—For purposes of section 201, funds made available for section 202(d) under paragraph (1) shall be considered to be part of the tribal transportation program.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 123 the following:

"124. Bridge investment program.".

SEC. 11119. SAFE ROUTES TO SCHOOL.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code, is amended by inserting after section 207 the following:

"§ 208. Safe routes to school

"(a) DEFINITIONS.—In this section:

"(1) IN THE VICINITY OF SCHOOLS.—The term 'in the vicinity of schools', with respect to a school, means the approximately 2-mile area within bicycling and walking distance of the school.

"(2) PRIMARY, MIDDLE, AND HIGH SCHOOLS.—The term 'primary, middle, and high schools' means schools providing education from kindergarten through 12th grade.

"(b) ESTABLISHMENT.—Subject to the requirements of this section, the Secretary shall establish and carry out a safe routes to school program for the benefit of children in primary, middle, and high schools.

"(c) PURPOSES.—The purposes of the program established under subsection (b) shall be—

"(1) to enable and encourage children, including those with disabilities, to walk and bicycle to school;

"(2) to make bicycling and walking to school a safer and more appealing transportation alternative, thereby encouraging a healthy and active lifestyle from an early age; and

"(3) to facilitate the planning, development, and implementation of projects and activities that will improve safety and reduce traffic, fuel consumption, and air pollution in the vicinity of schools.

"(d) APPORTIONMENT OF FUNDS.—

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"(1) IN GENERAL.—Subject to paragraphs (2), (3), and (4), amounts made available to carry out this section for a fiscal year shall be apportioned among the States so that each State receives the amount equal to the proportion that—

"(A) the total student enrollment in primary, middle, and high schools in each State; bears to

"(B) the total student enrollment in primary, middle, and high schools in all States.

"(2) MINIMUM APPORTIONMENT.—No State shall receive an apportionment under this section for a fiscal year of less than $1,000,000.

"(3) SET-ASIDE FOR ADMINISTRATIVE EXPENSES.—Before apportioning under this subsection amounts made available to carry out this section for a fiscal year, the Secretary shall set aside not more than $3,000,000 of those amounts for the administrative expenses of the Secretary in carrying out this section.

"(4) DETERMINATION OF STUDENT ENROLLMENTS.—Determinations under this subsection relating to student enrollments shall be made by the Secretary.

"(e) ADMINISTRATION OF AMOUNTS.—Amounts apportioned to a State under this section shall be administered by the State department of transportation.

"(f) ELIGIBLE RECIPIENTS.—Amounts apportioned to a State under this section shall be used by the State to provide financial assistance to State, local, Tribal, and regional agencies, including nonprofit organizations, that demonstrate an ability to meet the requirements of this section.

"(g) ELIGIBLE PROJECTS AND ACTIVITIES.—

"(1) INFRASTRUCTURE-RELATED PROJECTS.—

"(A) IN GENERAL.—Amounts apportioned to a State under this section may be used for the planning, design, and construction of infrastructure-related projects that will substantially improve the ability of students to walk and bicycle to school, including sidewalk improvements, traffic calming and speed reduction improvements, pedestrian and bicycle crossing improvements, on-street bicycle facilities, off-street bicycle and pedestrian facilities, secure bicycle parking facilities, and traffic diversion improvements in the vicinity of schools.

"(B) LOCATION OF PROJECTS.—Infrastructure-related projects under subparagraph (A) may be carried out on any public road or any bicycle or pedestrian pathway or trail in the vicinity of schools.

"(2) NONINFRASTRUCTURE-RELATED ACTIVITIES.—

"(A) IN GENERAL.—In addition to projects described in paragraph (1), amounts apportioned to a State under this section may be used for noninfrastructure-related activities to encourage walking and bicycling to school, including public awareness campaigns and outreach to press and community leaders, traffic education and enforcement in the vicinity of schools, student sessions on bicycle and pedestrian safety, health, and environment, and funding for training, volunteers, and managers of safe routes to school programs.

"(B) ALLOCATION.—Not less than 10 percent and not more than 30 percent of the amount apportioned to a

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State under this section for a fiscal year shall be used for noninfrastructure-related activities under this paragraph.

"(3) SAFE ROUTES TO SCHOOL COORDINATOR.—Each State shall use a sufficient amount of the apportionment of the State for each fiscal year to fund a full-time position of coordinator of the safe routes to school program of the State.

"(h) CLEARINGHOUSE.—

"(1) IN GENERAL.—The Secretary shall make grants to a national nonprofit organization engaged in promoting safe routes to schools—

"(A) to operate a national safe routes to school clearinghouse;

"(B) to develop information and educational programs on safe routes to school; and

"(C) to provide technical assistance and disseminate techniques and strategies used for successful safe routes to school programs.

"(2) FUNDING.—The Secretary shall carry out this subsection using amounts set aside for administrative expenses under subsection (d)(3).

"(i) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, a project assisted under this section shall be treated as a project on a Federal-aid highway under chapter 1.".

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 2 of title 23, United States Code, is amended by inserting after the item relating to section 207 the following:

"208. Safe routes to school.".

(2) Section 1404 of SAFETEA–LU (23 U.S.C. 402 note; Public Law 109–59) is repealed.

(3) The table of contents in section 1(b) of SAFETEA–LU (Public Law 109–59; 119 Stat. 1144) is amended by striking the item relating to section 1404.

SEC. 11120. HIGHWAY USE TAX EVASION PROJECTS.

Section 143(b)(2)(A) of title 23, United States Code, is amended by striking "fiscal years 2016 through 2020" and inserting "fiscal years 2022 through 2026".

SEC. 11121. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.

Section 147 of title 23, United States Code, is amended by striking subsection (h) and inserting the following:

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section—

"(1) $110,000,000 for fiscal year 2022;
"(2) $112,000,000 for fiscal year 2023;
"(3) $114,000,000 for fiscal year 2024;
"(4) $116,000,000 for fiscal year 2025; and
"(5) $118,000,000 for fiscal year 2026.".

SEC. 11122. VULNERABLE ROAD USER RESEARCH.

(a) DEFINITIONS.—In this subsection:

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(1) ADMINISTRATOR.—The term "Administrator" means the Secretary, acting through the Administrator of the Federal Highway Administration.

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

(b) ESTABLISHMENT OF RESEARCH PLAN.—The Administrator shall establish a research plan to prioritize research on roadway designs, the development of safety countermeasures to minimize fatalities and serious injuries to vulnerable road users, and the promotion of bicycling and walking, including research relating to—

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

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

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

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

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

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

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

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

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

(d) SUBMISSION; PUBLICATION.—

(1) SUBMISSION OF PLAN.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives the research plan described in subsection (b).

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

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

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

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SEC. 11123. WILDLIFE CROSSING SAFETY.

(a) DECLARATION OF POLICY.—Section 101(b)(3)(D) of title 23, United States Code, is amended, in the matter preceding clause (i), by inserting "resilient," after "efficient,".

(b) WILDLIFE CROSSINGS PILOT PROGRAM.—

(1) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"§ 171. Wildlife crossings pilot program

"(a) FINDING.—Congress finds that greater adoption of wildlife-vehicle collision safety countermeasures is in the public interest because—

"(1) according to the report of the Federal Highway Administration entitled 'Wildlife-Vehicle Collision Reduction Study', there are more than 1,000,000 wildlife-vehicle collisions every year;

"(2) wildlife-vehicle collisions—

"(A) present a danger to—

"(i) human safety; and

"(ii) wildlife survival; and

"(B) represent a persistent concern that results in tens of thousands of serious injuries and hundreds of fatalities on the roadways of the United States; and

"(3) the total annual cost associated with wildlife-vehicle collisions has been estimated to be $8,388,000,000; and

"(4) wildlife-vehicle collisions are a major threat to the survival of species, including birds, reptiles, mammals, and amphibians.

"(b) ESTABLISHMENT.—The Secretary shall establish a competitive wildlife crossings pilot program (referred to in this section as the 'pilot program') to provide grants for projects that seek to achieve—

"(1) a reduction in the number of wildlife-vehicle collisions; and

"(2) in carrying out the purpose described in paragraph (1), improved habitat connectivity for terrestrial and aquatic species.

"(c) ELIGIBLE ENTITIES.—An entity eligible to apply for a grant under the pilot program is—

"(1) a State highway agency, or an equivalent of that agency;

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

"(3) a unit of local government;

"(4) a regional transportation authority;

"(5) a special purpose district or public authority with a transportation function, including a port authority;

"(6) an Indian tribe (as defined in section 207(m)(1)), including a Native village and a Native Corporation (as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602));

"(7) a Federal land management agency; or

"(8) a group of any of the entities described in paragraphs (1) through (7).

"(d) APPLICATIONS.—

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"(1) IN GENERAL.—To be eligible to receive a grant under the pilot program, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(2) REQUIREMENT.—If an application under paragraph (1) is submitted by an eligible entity other than an eligible entity described in paragraph (1) or (7) of subsection (c), the application shall include documentation that the State highway agency, or an equivalent of that agency, of the State in which the eligible entity is located was consulted during the development of the application.

"(3) GUIDANCE.—To enhance consideration of current and reliable data, eligible entities may obtain guidance from an agency in the State with jurisdiction over fish and wildlife.

"(e) CONSIDERATIONS.—In selecting grant recipients under the pilot program, the Secretary shall take into consideration the following:

"(1) Primarily, the extent to which the proposed project of an eligible entity is likely to protect motorists and wildlife by reducing the number of wildlife-vehicle collisions and improve habitat connectivity for terrestrial and aquatic species.

"(2) Secondarily, the extent to which the proposed project of an eligible entity is likely to accomplish the following:

"(A) Leveraging Federal investment by encouraging non-Federal contributions to the project, including projects from public-private partnerships.

"(B) Supporting local economic development and improvement of visitation opportunities.

"(C) Incorporation of innovative technologies, including advanced design techniques and other strategies to enhance efficiency and effectiveness in reducing wildlife-vehicle collisions and improving habitat connectivity for terrestrial and aquatic species.

"(D) Provision of educational and outreach opportunities.

"(E) Monitoring and research to evaluate, compare effectiveness of, and identify best practices in, selected projects.

"(F) Any other criteria relevant to reducing the number of wildlife-vehicle collisions and improving habitat connectivity for terrestrial and aquatic species, as the Secretary determines to be appropriate, subject to the condition that the implementation of the pilot program shall not be delayed in the absence of action by the Secretary to identify additional criteria under this subparagraph.

"(f) USE OF FUNDS.—

"(1) IN GENERAL.—The Secretary shall ensure that a grant received under the pilot program is used for a project to reduce wildlife-vehicle collisions.

"(2) GRANT ADMINISTRATION.—

"(A) IN GENERAL.—A grant received under the pilot program shall be administered by—

"(i) in the case of a grant to a Federal land management agency or an Indian tribe (as defined in section 207(m)(1), including a Native village and a Native Corporation (as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C.

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1602))), the Federal Highway Administration, through an agreement; and

"(ii) in the case of a grant to an eligible entity other than an eligible entity described in clause (i), the State highway agency, or an equivalent of that agency, for the State in which the project is to be carried out.

"(B) PARTNERSHIPS.—

"(i) IN GENERAL.—A grant received under the pilot program may be used to provide funds to eligible partners of the project for which the grant was received described in clause (ii), in accordance with the terms of the project agreement.

"(ii) ELIGIBLE PARTNERS DESCRIBED.—The eligible partners referred to in clause (i) include—

"(I) a metropolitan planning organization (as defined in section 134(b));

"(II) a unit of local government;

"(III) a regional transportation authority;

"(IV) a special purpose district or public authority with a transportation function, including a port authority;

"(V) an Indian tribe (as defined in section 207(m)(1)), including a Native village and a Native Corporation (as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602));

"(VI) a Federal land management agency;

"(VII) a foundation, nongovernmental organization, or institution of higher education;

"(VIII) a Federal, Tribal, regional, or State government entity; and

"(IX) a group of any of the entities described in subclauses (I) through (VIII).

"(3) COMPLIANCE.—An eligible entity that receives a grant under the pilot program and enters into a partnership described in paragraph (2) shall establish measures to verify that an eligible partner that receives funds from the grant complies with the conditions of the pilot program in using those funds.

"(g) REQUIREMENT.—The Secretary shall ensure that not less than 60 percent of the amounts made available for grants under the pilot program each fiscal year are for projects located in rural areas.

"(h) ANNUAL REPORT TO CONGRESS.—

"(1) IN GENERAL.—Not later than December 31 of each calendar year, the Secretary shall submit to Congress, and make publicly available, a report describing the activities under the pilot program for the fiscal year that ends during that calendar year.

"(2) CONTENTS.—The report under paragraph (1) shall include—

"(A) a detailed description of the activities carried out under the pilot program;

"(B) an evaluation of the effectiveness of the pilot program in meeting the purposes described in subsection (b); and

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"(C) policy recommendations to improve the effectiveness of the pilot program.

"(i) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, a project assisted under this section shall be treated as a project on a Federal-aid highway under this chapter.".

(2) CLERICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 170 the following:

"171. Wildlife crossings pilot program.".

(c) WILDLIFE VEHICLE COLLISION REDUCTION AND HABITAT CONNECTIVITY IMPROVEMENT.—

(1) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by subsection (b)(1)), is amended by adding at the end the following:

"§ 172. Wildlife-vehicle collision reduction and habitat connectivity improvement

"(a) STUDY.—

"(1) IN GENERAL.—The Secretary shall conduct a study (referred to in this subsection as the 'study') of the state, as of the date of the study, of the practice of methods to reduce collisions between motorists and wildlife (referred to in this section as 'wildlife-vehicle collisions').

"(2) CONTENTS.—

"(A) AREAS OF STUDY.—The study shall—

"(i) update and expand on, as appropriate—

"(I) the report entitled 'Wildlife Vehicle Collision Reduction Study: 2008 Report to Congress'; and

"(II) the document entitled 'Wildlife Vehicle Collision Reduction Study: Best Practices Manual' and dated October 2008; and

"(ii) include—

"(I) an assessment, as of the date of the study, of—

"(aa) the causes of wildlife-vehicle collisions;

"(bb) the impact of wildlife-vehicle collisions on motorists and wildlife; and

"(cc) the impacts of roads and traffic on habitat connectivity for terrestrial and aquatic species; and

"(II) solutions and best practices for—

"(aa) reducing wildlife-vehicle collisions; and

"(bb) improving habitat connectivity for terrestrial and aquatic species.

"(B) METHODS.—In carrying out the study, the Secretary shall—

"(i) conduct a thorough review of research and data relating to—

"(I) wildlife-vehicle collisions; and

"(II) habitat fragmentation that results from transportation infrastructure;

"(ii) survey current practices of the Department of Transportation and State departments of transportation to reduce wildlife-vehicle collisions; and

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"(iii) consult with—

"(I) appropriate experts in the field of wildlife-vehicle collisions; and

"(II) appropriate experts on the effects of roads and traffic on habitat connectivity for terrestrial and aquatic species.

"(3) REPORT.—

"(A) IN GENERAL.—Not later than 18 months after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Secretary shall submit to Congress a report on the results of the study.

"(B) CONTENTS.—The report under subparagraph (A) shall include—

"(i) a description of—

"(I) the causes of wildlife-vehicle collisions;

"(II) the impacts of wildlife-vehicle collisions; and

"(III) the impacts of roads and traffic on—

"(aa) species listed as threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(bb) species identified by States as species of greatest conservation need;

"(cc) species identified in State wildlife plans; and

"(dd) medium and small terrestrial and aquatic species;

"(ii) an economic evaluation of the costs and benefits of installing highway infrastructure and other measures to mitigate damage to terrestrial and aquatic species, including the effect on jobs, property values, and economic growth to society, adjacent communities, and landowners;

"(iii) recommendations for preventing wildlife-vehicle collisions, including recommended best practices, funding resources, or other recommendations for addressing wildlife-vehicle collisions; and

"(iv) guidance, developed in consultation with Federal land management agencies and State departments of transportation, State fish and wildlife agencies, and Tribal governments that agree to participate, for developing, for each State that agrees to participate, a voluntary joint statewide transportation and wildlife action plan—

"(I) to address wildlife-vehicle collisions; and

"(II) to improve habitat connectivity for terrestrial and aquatic species.

"(b) WORKFORCE DEVELOPMENT AND TECHNICAL TRAINING.—

"(1) IN GENERAL.—Not later than 3 years after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Secretary shall, based on the study conducted under subsection (a), develop a series of in-person and online workforce development and technical training courses—

"(A) to reduce wildlife-vehicle collisions; and

"(B) to improve habitat connectivity for terrestrial and aquatic species.

"(2) AVAILABILITY.—The Secretary shall—

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"(A) make the series of courses developed under paragraph (1) available for transportation and fish and wildlife professionals; and

"(B) update the series of courses not less frequently than once every 2 years.

"(c) STANDARDIZATION OF WILDLIFE COLLISION AND CARCASS DATA.—

"(1) STANDARDIZED METHODOLOGY.—

"(A) IN GENERAL.—The Secretary, acting through the Administrator of the Federal Highway Administration (referred to in this subsection as the 'Secretary'), shall develop a quality standardized methodology for collecting and reporting spatially accurate wildlife collision and carcass data for the National Highway System, considering the practicability of the methodology with respect to technology and cost.

"(B) METHODOLOGY.—In developing the standardized methodology under subparagraph (A), the Secretary shall—

"(i) survey existing methodologies and sources of data collection, including the Fatality Analysis Reporting System, the General Estimates System of the National Automotive Sampling System, and the Highway Safety Information System; and

"(ii) to the extent practicable, identify and correct limitations of those existing methodologies and sources of data collection.

"(C) CONSULTATION.—In developing the standardized methodology under subparagraph (A), the Secretary shall consult with—

"(i) the Secretary of the Interior;

"(ii) the Secretary of Agriculture, acting through the Chief of the Forest Service;

"(iii) Tribal, State, and local transportation and wildlife authorities;

"(iv) metropolitan planning organizations (as defined in section 134(b));

"(v) members of the American Association of State Highway Transportation Officials;

"(vi) members of the Association of Fish and Wildlife Agencies;

"(vii) experts in the field of wildlife-vehicle collisions;

"(viii) nongovernmental organizations; and

"(ix) other interested stakeholders, as appropriate.

"(2) STANDARDIZED NATIONAL DATA SYSTEM WITH VOLUNTARY TEMPLATE IMPLEMENTATION.—The Secretary shall—

"(A) develop a template for State implementation of a standardized national wildlife collision and carcass data system for the National Highway System that is based on the standardized methodology developed under paragraph (1); and

"(B) encourage the voluntary implementation of the template developed under subparagraph (A).

"(3) REPORTS.—

"(A) METHODOLOGY.—The Secretary shall submit to Congress a report describing the standardized methodology

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developed under paragraph (1) not later than the later of—

"(i) the date that is 18 months after the date of enactment of the Surface Transportation Reauthorization Act of 2021; and

"(ii) the date that is 180 days after the date on which the Secretary completes the development of the standardized methodology.

"(B) IMPLEMENTATION.—Not later than 4 years after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Secretary shall submit to Congress a report describing—

"(i) the status of the voluntary implementation of the standardized methodology developed under paragraph (1) and the template developed under paragraph (2)(A);

"(ii) whether the implementation of the standardized methodology developed under paragraph (1) and the template developed under paragraph (2)(A) has impacted efforts by States, units of local government, and other entities—

"(I) to reduce the number of wildlife-vehicle collisions; and

"(II) to improve habitat connectivity;

"(iii) the degree of the impact described in clause (ii); and

"(iv) the recommendations of the Secretary, including recommendations for further study aimed at reducing motorist collisions involving wildlife and improving habitat connectivity for terrestrial and aquatic species on the National Highway System, if any.

"(d) NATIONAL THRESHOLD GUIDANCE.—The Secretary shall—

"(1) establish guidance, to be carried out by States on a voluntary basis, that contains a threshold for determining whether a highway shall be evaluated for potential mitigation measures to reduce wildlife-vehicle collisions and increase habitat connectivity for terrestrial and aquatic species, taking into consideration—

"(A) the number of wildlife-vehicle collisions on the highway that pose a human safety risk;

"(B) highway-related mortality and the effects of traffic on the highway on—

"(i) species listed as endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(ii) species identified by a State as species of greatest conservation need;

"(iii) species identified in State wildlife plans; and

"(iv) medium and small terrestrial and aquatic species; and

"(C) habitat connectivity values for terrestrial and aquatic species and the barrier effect of the highway on the movements and migrations of those species.".

(2) CLERICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by subsection (b)(2))

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is amended by inserting after the item relating to section 171 the following:

"172. Wildlife-vehicle collision reduction and habitat connectivity improvement.".

(d) WILDLIFE CROSSINGS STANDARDS.—Section 109(c)(2) of title 23, United States Code, is amended—

(1) in subparagraph (E), by striking "and" at the end;

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting after subparagraph (E) the following:

"(F) the publication of the Federal Highway Administration entitled 'Wildlife Crossing Structure Handbook: Design and Evaluation in North America' and dated March 2011; and".

(e) WILDLIFE HABITAT CONNECTIVITY AND NATIONAL BRIDGE AND TUNNEL INVENTORY AND INSPECTION STANDARDS.—Section 144 of title 23, United States Code, is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (B), by inserting ", resilience," after "safety";

(B) in subparagraph (D), by striking "and" at the end;

(C) in subparagraph (E), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(F) to ensure adequate passage of aquatic and terrestrial species, where appropriate.";

(2) in subsection (b)—

(A) in paragraph (4), by striking "and" at the end;

(B) in paragraph (5), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(6) determine if the replacement or rehabilitation of bridges and tunnels should include measures to enable safe and unimpeded movement for terrestrial and aquatic species."; and

(3) in subsection (i), by adding at the end the following:

"(3) REQUIREMENT.—The first revision under paragraph (2) after the date of enactment of the Surface Transportation Reauthorization Act of 2021 shall include techniques to assess passage of aquatic and terrestrial species and habitat restoration potential.".

SEC. 11124. CONSOLIDATION OF PROGRAMS.

Section 1519(a) of MAP–21 (Public Law 112–141; 126 Stat. 574; 129 Stat. 1423) is amended, in the matter preceding paragraph (1), by striking "fiscal years 2016 through 2020" and inserting "fiscal years 2022 through 2026".

SEC. 11125. GAO REPORT.

(a) IN GENERAL.—Section 1433 of the FAST Act (23 U.S.C. 101 note; Public Law 114–94) is repealed.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the FAST Act (Public Law 114–94; 129 Stat. 1312) is amended by striking the item relating to section 1433.

SEC. 11126. TERRITORIAL AND PUERTO RICO HIGHWAY PROGRAM.

Section 165 of title 23, United States Code, is amended—

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(1) in subsection (a), by striking paragraphs (1) and (2) and inserting the following:

"(1) for the Puerto Rico highway program under subsection (b)—

"(A) $173,010,000 shall be for fiscal year 2022;
"(B) $176,960,000 shall be for fiscal year 2023;
"(C) $180,120,000 shall be for fiscal year 2024;
"(D) $183,675,000 shall be for fiscal year 2025; and
"(E) $187,230,000 shall be for fiscal year 2026; and

"(2) for the territorial highway program under subsection (c)—

"(A) $45,990,000 shall be for fiscal year 2022;
"(B) $47,040,000 shall be for fiscal year 2023;
"(C) $47,880,000 shall be for fiscal year 2024;
"(D) $48,825,000 shall be for fiscal year 2025; and
"(E) $49,770,000 shall be for fiscal year 2026.";

(2) in subsection (b)(2)(C)(iii), by inserting "and preventative maintenance on the National Highway System" after "chapter 1"; and

(3) in subsection (c)(7), by striking "paragraphs (1) through (4) of section 133(c) and section 133(b)(12)" and inserting "paragraphs (1), (2), (3), and (5) of section 133(c) and section 133(b)(13)".

SEC. 11127. NATIONALLY SIGNIFICANT FEDERAL LANDS AND TRIBAL PROJECTS PROGRAM.

Section 1123 of the FAST Act (23 U.S.C. 201 note; Public Law 114–94) is amended—

(1) in subsection (c)(3), by striking "$25,000,000" and all that follows through the period at the end and inserting "$12,500,000.";

(2) in subsection (g)—

(A) by striking the subsection designation and heading and all that follows through "The Federal" in paragraph (1) and inserting the following:

"(g) COST SHARE.—

"(1) FEDERAL SHARE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal";

(B) in paragraph (1), by adding at the end the following:

"(B) TRIBAL PROJECTS.—In the case of a project on a tribal transportation facility (as defined in section 101(a) of title 23, United States Code), the Federal share of the cost of the project shall be 100 percent."; and

(C) in paragraph (2), by striking "other than those made available under title 23 or title 49, United States Code,"; and

(3) by striking subsection (h) and inserting the following:

"(h) USE OF FUNDS.—

"(1) IN GENERAL.—For each fiscal year, of the amounts made available to carry out this section—

"(A) 50 percent shall be used for eligible projects on Federal lands transportation facilities and Federal lands access transportation facilities (as those terms are defined in section 101(a) of title 23, United States Code); and

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"(B) 50 percent shall be used for eligible projects on tribal transportation facilities (as defined in section 101(a) of title 23, United States Code).

"(2) REQUIREMENT.—Not less than 1 eligible project carried out using the amount described in paragraph (1)(A) shall be in a unit of the National Park System with not less than 3,000,000 annual visitors.

"(3) AVAILABILITY.—Amounts made available to carry out this section shall remain available for a period of 3 fiscal years following the fiscal year for which the amounts are appropriated.".

SEC. 11128. TRIBAL HIGH PRIORITY PROJECTS PROGRAM.

Section 1123(h) of MAP–21 (23 U.S.C. 202 note; Public Law 112–141) is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) in paragraph (3) (as so redesignated), in the matter preceding subparagraph (A), by striking "paragraph (1)" and inserting "paragraphs (1) and (2)"; and

(3) by striking the subsection designation and heading and all that follows through the period at the end of paragraph (1) and inserting the following:

"(h) FUNDING.—

"(1) SET-ASIDE.—For each of fiscal years 2022 through 2026, of the amounts made available to carry out the tribal transportation program under section 202 of title 23, United States Code, for that fiscal year, the Secretary shall use $9,000,000 to carry out the program.

"(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts made available under paragraph (1), there is authorized to be appropriated $30,000,000 out of the general fund of the Treasury to carry out the program for each of fiscal years 2022 through 2026.".

SEC. 11129. STANDARDS.

Section 109 of title 23, United States Code, is amended—

(1) in subsection (d)—

(A) by striking "(d) On any" and inserting the following:

"(d) MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES.—

"(1) IN GENERAL.—On any";

(B) in paragraph (1) (as so designated), by striking "promote the safe" and inserting "promote the safety, inclusion, and mobility of all users"; and

(C) by adding at the end the following:

"(2) UPDATES.—Not later than 18 months after the date of enactment of the Surface Transportation Reauthorization Act of 2021 and not less frequently than every 4 years thereafter, the Secretary shall update the Manual on Uniform Traffic Control Devices.";

(2) in subsection (o)—

(A) by striking "Projects" and inserting:

"(A) IN GENERAL.—Projects"; and

(B) by inserting at the end the following:

"(B) LOCAL JURISDICTIONS.—Notwithstanding subparagraph (A), a local jurisdiction may use a roadway design guide recognized by the Federal Highway Administration and adopted by the local jurisdiction that is different from the roadway design guide used by the State in which

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the local jurisdiction is located for the design of projects on all roadways under the ownership of the local jurisdiction (other than a highway on the National Highway System) for which the local jurisdiction is the project sponsor, provided that the design complies with all other applicable Federal laws."; and

(3) by adding at the end the following:

"(s) ELECTRIC VEHICLE CHARGING STATIONS.—

"(1) STANDARDS.—Electric vehicle charging infrastructure installed using funds provided under this title shall provide, at a minimum—

"(A) non-proprietary charging connectors that meet applicable industry safety standards; and

"(B) open access to payment methods that are available to all members of the public to ensure secure, convenient, and equal access to the electric vehicle charging infrastructure that shall not be limited by membership to a particular payment provider.

"(2) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, a project to install electric vehicle charging infrastructure using funds provided under this title shall be treated as if the project is located on a Federal-aid highway.".

SEC. 11130. PUBLIC TRANSPORTATION.

(a) IN GENERAL.—Section 142(a) of title 23, United States Code, is amended by adding at the end the following:

"(3) BUS CORRIDORS.—In addition to the projects described in paragraphs (1) and (2), the Secretary may approve payment from sums apportioned under paragraph (2) or (7) of section 104(b) for carrying out a capital project for the construction of a bus rapid transit corridor or dedicated bus lanes, including the construction or installation of—

"(A) traffic signaling and prioritization systems;

"(B) redesigned intersections that are necessary for the establishment of a bus rapid transit corridor;

"(C) on-street stations;

"(D) fare collection systems;

"(E) information and wayfinding systems; and

"(F) depots.".

(b) TECHNICAL CORRECTION.—Section 142 of title 23, United States Code, is amended by striking subsection (i).

SEC. 11131. RESERVATION OF CERTAIN FUNDS.

(a) OPEN CONTAINER REQUIREMENTS.—Section 154(c)(2) of title 23, United States Code, is amended—

(1) in the paragraph heading, by striking "2012" and inserting "2022";

(2) by striking subparagraph (A) and inserting the following:

"(A) RESERVATION OF FUNDS.—

"(i) IN GENERAL.—On October 1, 2021, and each October 1 thereafter, in the case of a State described in clause (ii), the Secretary shall reserve an amount equal to 2.5 percent of the funds to be apportioned to the State on that date under each of paragraphs (1) and (2) of section 104(b) until the State certifies to the Secretary the means by which the State will

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use those reserved funds in accordance with subparagraphs (A) and (B) of paragraph (1), and paragraph (3).

"(ii) STATES DESCRIBED.—A State referred to in clause (i) is a State—

"(I) that has not enacted or is not enforcing an open container law described in subsection (b); and

"(II) for which the Secretary determined for the prior fiscal year that the State had not enacted or was not enforcing an open container law described in subsection (b).."; and

(3) in subparagraph (B), in the matter preceding clause (i), by striking "subparagraph (A)" and inserting "subparagraph (A)(i)".

(b) REPEAT INTOXICATED DRIVER LAWS.—Section 164(b)(2) of title 23, United States Code, is amended—

(1) in the paragraph heading, by striking "2012" and inserting "2022";

(2) by striking subparagraph (A) and inserting the following:

"(A) RESERVATION OF FUNDS.—

"(i) IN GENERAL.—On October 1, 2021, and each October 1 thereafter, in the case of a State described in clause (ii), the Secretary shall reserve an amount equal to 2.5 percent of the funds to be apportioned to the State on that date under each of paragraphs (1) and (2) of section 104(b) until the State certifies to the Secretary the means by which the State will use those reserved funds in accordance with subparagraphs (A) and (B) of paragraph (1), and paragraph (3).

"(ii) STATES DESCRIBED.—A State referred to in clause (i) is a State—

"(I) that has not enacted or is not enforcing a repeat intoxicated driver law; and

"(II) for which the Secretary determined for the prior fiscal year that the State had not enacted or was not enforcing a repeat intoxicated driver law."; and

(3) in subparagraph (B), in the matter preceding clause (i), by striking "subparagraph (A)" and inserting "subparagraph (A)(i)".

SEC. 11132. RURAL SURFACE TRANSPORTATION GRANT PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 11123(c)(1)), is amended by adding at the end the following:

"§ 173. Rural surface transportation grant program

"(a) DEFINITIONS.—In this section:

"(1) PROGRAM.—The term 'program' means the program established under subsection (b)(1).

"(2) RURAL AREA.—The term 'rural area' means an area that is outside an urbanized area with a population of over 200,000.

"(b) ESTABLISHMENT.—

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"(1) IN GENERAL.—The Secretary shall 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.

"(2) GOALS.—The goals of the program shall be—

"(A) to increase connectivity;

"(B) to improve the safety and reliability of the movement of people and freight; and

"(C) to generate regional economic growth and improve quality of life.

"(3) GRANT ADMINISTRATION.—The Secretary may—

"(A) retain not more than a total of 2 percent of the funds made available to carry out the program and to review applications for grants under the program; and

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

"(c) ELIGIBLE ENTITIES.—The Secretary may make a grant under the program to—

"(1) a State;

"(2) a regional transportation planning organization;

"(3) a unit of local government;

"(4) a Tribal government or a consortium of Tribal governments; and

"(5) a multijurisdictional group of entities described in paragraphs (1) through (4).

"(d) APPLICATIONS.—To be eligible to receive a grant under the program, an eligible entity shall submit to the Secretary an application in such form, at such time, and containing such information as the Secretary may require.

"(e) ELIGIBLE PROJECTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may make a grant under the program only for a project that is—

"(A) a highway, bridge, or tunnel project eligible under section 119(d);

"(B) a highway, bridge, or tunnel project eligible under section 133(b);

"(C) a project eligible under section 202(a);

"(D) a highway freight project eligible under section 167(h)(5);

"(E) a highway safety improvement project, including a project to improve a high risk rural road (as those terms are defined in section 148(a));

"(F) a project on a publicly-owned highway or bridge that provides or increases access to an agricultural, commercial, energy, or intermodal facility that supports the economy of a rural area; or

"(G) a project to develop, establish, or maintain an integrated mobility management system, a transportation demand management system, or on-demand mobility services.

"(2) BUNDLING OF ELIGIBLE PROJECTS.—

"(A) IN GENERAL.—An eligible entity may bundle 2 or more similar eligible projects under the program that are—

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"(i) included as a bundled project in a statewide transportation improvement program under section 135; and

"(ii) awarded to a single contractor or consultant pursuant to a contract for engineering and design or construction between the contractor and the eligible entity.

"(B) ITEMIZATION.—Notwithstanding any other provision of law (including regulations), a bundling of eligible projects under this paragraph may be considered to be a single project, including for purposes of section 135.

"(f) ELIGIBLE PROJECT COSTS.—An eligible entity may use funds from a grant under the program for—

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

"(2) construction, reconstruction, rehabilitation, acquisition of real property (including land related to the project and improvements to the land), environmental mitigation, construction contingencies, acquisition of equipment, and operational improvements.

"(g) PROJECT REQUIREMENTS.—The Secretary may provide a grant under the program to an eligible project only if the Secretary determines that the project—

"(1) will generate regional economic, mobility, or safety benefits;

"(2) will be cost effective;

"(3) will contribute to the accomplishment of 1 or more of the national goals under section 150;

"(4) is based on the results of preliminary engineering; and

"(5) is reasonably expected to begin construction not later than 18 months after the date of obligation of funds for the project.

"(h) ADDITIONAL CONSIDERATIONS.—In providing grants under the program, the Secretary shall consider the extent to which an eligible project will—

"(1) improve the state of good repair of existing highway, bridge, and tunnel facilities;

"(2) increase the capacity or connectivity of the surface transportation system and improve mobility for residents of rural areas;

"(3) address economic development and job creation challenges, including energy sector job losses in energy communities as identified in the report released in April 2021 by the interagency working group established by section 218 of Executive Order 14008 (86 Fed. Reg. 7628 (February 1, 2021));

"(4) enhance recreational and tourism opportunities by providing access to Federal land, national parks, national forests, national recreation areas, national wildlife refuges, wilderness areas, or State parks;

"(5) contribute to geographic diversity among grant recipients;

"(6) utilize innovative project delivery approaches or incorporate transportation technologies;

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"(7) coordinate with projects to address broadband infrastructure needs; or

"(8) improve access to emergency care, essential services, healthcare providers, or drug and alcohol treatment and rehabilitation resources.

"(i) GRANT AMOUNT.—Except as provided in subsection (k)(1), a grant under the program shall be in an amount that is not less than $25,000,000.

"(j) FEDERAL SHARE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Federal share of the cost of a project carried out with a grant under the program may not exceed 80 percent.

"(2) FEDERAL SHARE FOR CERTAIN PROJECTS.—The Federal share of the cost of an eligible project that furthers the completion of a designated segment of the Appalachian Development Highway System under section 14501 of title 40, or addresses a surface transportation infrastructure need identified for the Denali access system program under section 309 of the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277) shall be up to 100 percent, as determined by the State.

"(3) USE OF OTHER FEDERAL ASSISTANCE.—Federal assistance other than a grant under the program may be used to satisfy the non-Federal share of the cost of a project carried out with a grant under the program.

"(k) SET ASIDES.—

"(1) SMALL PROJECTS.—The Secretary shall use not more than 10 percent of the amounts made available for the program for each fiscal year to provide grants for eligible projects in an amount that is less than $25,000,000.

"(2) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.—The Secretary shall reserve 25 percent of the amounts made available for the program for each fiscal year for eligible projects that further the completion of designated routes of the Appalachian Development Highway System under section 14501 of title 40.

"(3) RURAL ROADWAY LANE DEPARTURES.—The Secretary shall reserve 15 percent of the amounts made available for the program for each fiscal year to provide grants for eligible projects located in States that have rural roadway fatalities as a result of lane departures that are greater than the average of rural roadway fatalities as a result of lane departures in the United States, based on the latest available data from the Secretary.

"(4) EXCESS FUNDING.—In any fiscal year in which qualified applications for grants under this subsection do not allow for the amounts reserved under paragraphs (1), (2), or (3) to be fully utilized, the Secretary shall use the unutilized amounts to make other grants under the program.

"(l) CONGRESSIONAL REVIEW.—

"(1) NOTIFICATION.—Not less than 60 days before providing a grant under the program, 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) a list of all applications determined to be eligible for a grant by the Secretary;

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"(B) each application proposed to be selected for a grant, including a justification for the selection; and

"(C) proposed grant amounts.

"(2) COMMITTEE REVIEW.—Before the last day of the 60-day period described in paragraph (1), each Committee described in paragraph (1) shall review the list of proposed projects submitted by the Secretary.

"(3) CONGRESSIONAL DISAPPROVAL.—The Secretary may not make a grant or any other obligation or commitment to fund a project under the program if a joint resolution is enacted disapproving funding for the project before the last day of the 60-day period described in paragraph (1).

"(m) TRANSPARENCY.—

"(1) IN GENERAL.—Not later than 30 days after providing a grant for a project under the program, the Secretary shall provide to all applicants, and publish on the website of the Department of Transportation, the information described in subsection (l)(1).

"(2) BRIEFING.—The Secretary shall provide, on the request of an eligible entity, the opportunity to receive a briefing to explain any reasons the eligible entity was not selected to receive a grant under the program.

"(n) REPORTS.—

"(1) ANNUAL REPORT.—The Secretary shall make available on the website of the Department of Transportation at the end of each fiscal year an annual report that lists each project for which a grant has been provided under the program during that fiscal year.

"(2) COMPTROLLER GENERAL.—

"(A) ASSESSMENT.—The Comptroller General of the United States shall conduct an assessment of the administrative establishment, solicitation, selection, and justification process with respect to the awarding of grants under the program for each fiscal year.

"(B) REPORT.—Each fiscal year, the Comptroller General 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, for the fiscal year—

"(i) the adequacy and fairness of the process by which each project was selected, if applicable; and

"(ii) the justification and criteria used for the selection of each project, if applicable.

"(o) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, a project assisted under this section shall be treated as a project on a Federal-aid highway under this chapter.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 11123(c)(2)), is amended by inserting after the item relating to section 172 the following:

"173. Rural surface transportation grant program.".

SEC. 11133. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.

Section 217 of title 23, United States Code, is amended—

(1) in subsection (a)—

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(A) by striking "pedestrian walkways and bicycle" and inserting "pedestrian walkways and bicycle and shared micromobility"; and

(B) by striking "safe bicycle use" and inserting "safe access for bicyclists and pedestrians";

(2) in subsection (d), by striking "a position" and inserting "up to 2 positions";

(3) in subsection (e), by striking "bicycles" each place it appears and inserting "pedestrians or bicyclists";

(4) in subsection (f), by striking "and a bicycle" and inserting "or a bicycle or shared micromobility"; and

(5) in subsection (j), by striking paragraph (2) and inserting the following:

"(2) ELECTRIC BICYCLE.—

"(A) IN GENERAL.—The term 'electric bicycle' means a bicycle—

"(i) equipped with fully operable pedals, a saddle or seat for the rider, and an electric motor of less than 750 watts;

"(ii) that can safely share a bicycle transportation facility with other users of such facility; and

"(iii) that is a class 1 electric bicycle, class 2 electric bicycle, or class 3 electric bicycle.

"(B) CLASSES OF ELECTRIC BICYCLES.—

"(i) CLASS 1 ELECTRIC BICYCLE.—For purposes of subparagraph (A)(iii), the term 'class 1 electric bicycle' means an electric bicycle, other than a class 3 electric bicycle, equipped with a motor that—

"(I) provides assistance only when the rider is pedaling; and

"(II) ceases to provide assistance when the speed of the bicycle reaches or exceeds 20 miles per hour.

"(ii) CLASS 2 ELECTRIC BICYCLE.—For purposes of subparagraph (A)(iii), the term 'class 2 electric bicycle' means an electric bicycle equipped with a motor that—

"(I) may be used exclusively to propel the bicycle; and

"(II) is not capable of providing assistance when the speed of the bicycle reaches or exceeds 20 miles per hour.

"(iii) CLASS 3 ELECTRIC BICYCLE.—For purposes of subparagraph (A)(iii), the term 'class 3 electric bicycle' means an electric bicycle equipped with a motor that—

"(I) provides assistance only when the rider is pedaling; and

"(II) ceases to provide assistance when the speed of the bicycle reaches or exceeds 28 miles per hour.".

SEC. 11134. RECREATIONAL TRAILS PROGRAM.

Section 206 of title 23, United States Code, is amended by adding at the end the following:

"(j) USE OF OTHER APPORTIONED FUNDS.—Funds apportioned to a State under section 104(b) that are obligated for a recreational trail or a related project shall be administered as if the funds were made available to carry out this section.".

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SEC. 11135. UPDATES TO MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES.

In carrying out the first update to the Manual on Uniform Traffic Control Devices under section 109(d)(2) of title 23, United States Code, to the greatest extent practicable, the Secretary shall include updates necessary to provide for—

(1) the protection of vulnerable road users (as defined in section 148(a) of title 23, United States Code);

(2) supporting the safe testing of automated vehicle technology and any preparation necessary for the safe integration of automated vehicles onto public streets;

(3) appropriate use of variable message signs to enhance public safety;

(4) the minimum retroreflectivity of traffic control devices and pavement markings; and

(5) any additional recommendations made by the National Committee on Uniform Traffic Control Devices that have not been incorporated into the Manual on Uniform Traffic Control Devices.

Subtitle B—Planning and Performance Management

SEC. 11201. TRANSPORTATION PLANNING.

(a) METROPOLITAN TRANSPORTATION PLANNING.—Section 134 of title 23, United States Code, is amended—

(1) in subsection (d)—

(A) in paragraph (3), by adding at the end the following:

"(D) CONSIDERATIONS.—In designating officials or representatives under paragraph (2) for the first time, subject to the bylaws or enabling statute of the metropolitan planning organization, the metropolitan planning organization shall consider the equitable and proportional representation of the population of the metropolitan planning area."; and

(B) in paragraph (7)—

(i) by striking "an existing metropolitan planning area" and inserting "an existing urbanized area (as defined by the Bureau of the Census)"; and

(ii) by striking "the existing metropolitan planning area" and inserting "the area";

(2) in subsection (g)—

(A) in paragraph (1), by striking "a metropolitan area" and inserting "an urbanized area (as defined by the Bureau of the Census)"; and

(B) by adding at the end the following:

"(4) COORDINATION BETWEEN MPOS.—If more than 1 metropolitan planning organization is designated within an urbanized area (as defined by the Bureau of the Census) under subsection (d)(7), the metropolitan planning organizations designated within the area shall ensure, to the maximum extent practicable, the consistency of any data used in the planning process, including information used in forecasting travel demand.

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"(5) SAVINGS CLAUSE.—Nothing in this subsection requires metropolitan planning organizations designated within a single urbanized area to jointly develop planning documents, including a unified long-range transportation plan or unified TIP.";

(3) in subsection (i)(6), by adding at the end the following:

"(D) USE OF TECHNOLOGY.—A metropolitan planning organization may use social media and other web-based tools—

"(i) to further encourage public participation; and

"(ii) to solicit public feedback during the transportation planning process."; and

(4) in subsection (p), by striking "paragraphs (5)(D) and (6) of section 104(b) of this title" and inserting "section 104(b)(6)".

(b) STATEWIDE AND NONMETROPOLITAN TRANSPORTATION PLANNING.—Section 135(f)(3) of title 23, United States Code, is amended by adding at the end the following:

"(C) USE OF TECHNOLOGY.—A State may use social media and other web-based tools—

"(i) to further encourage public participation; and

"(ii) to solicit public feedback during the transportation planning process.".

(c) CONFORMING AMENDMENT.—Section 135(i) of title 23, United States Code, is amended by striking "paragraphs (5)(D) and (6) of section 104(b) of this title" and inserting "section 104(b)(6)".

(d) HOUSING COORDINATION.—Section 134 of title 23, United States Code, is amended—

(1) in subsection (a)(1), by inserting "better connect housing and employment," after "urbanized areas";

(2) in subsection (g)(3)(A), by inserting "housing," after "economic development,";

(3) in subsection (h)(1)(E), by inserting ", housing," after "growth";

(4) in subsection (i)—

(A) in paragraph (4)(B)—

(i) by redesignating clauses (iii) through (vi) as clauses (iv) through (vii), respectively; and

(ii) by inserting after clause (ii) the following:

"(iii) assumed distribution of population and housing;"; and

(B) in paragraph (6)(A), by inserting "affordable housing organizations," after "disabled,"; and

(5) in subsection (k)—

(A) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) HOUSING COORDINATION PROCESS.—

"(A) IN GENERAL.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section may address the integration of housing, transportation, and economic development strategies through a process that provides for effective integration, based on a cooperatively developed and implemented strategy, of new and existing transportation facilities eligible for funding under this title and chapter 53 of title 49.

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"(B) COORDINATION IN INTEGRATED PLANNING PROCESS.—In carrying out the process described in subparagraph (A), a metropolitan planning organization may—

"(i) consult with—

"(I) State and local entities responsible for land use, economic development, housing, management of road networks, or public transportation; and

"(II) other appropriate public or private entities; and

"(ii) coordinate, to the extent practicable, with applicable State and local entities to align the goals of the process with the goals of any comprehensive housing affordability strategies established within the metropolitan planning area pursuant to section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) and plans developed under section 5A of the United States Housing Act of 1937 (42 U.S.C. 1437c–1).

"(C) HOUSING COORDINATION PLAN.—

"(i) IN GENERAL.—A metropolitan planning organization serving a transportation management area may develop a housing coordination plan that includes projects and strategies that may be considered in the metropolitan transportation plan of the metropolitan planning organization.

"(ii) CONTENTS.—A plan described in clause (i) may—

"(I) develop regional goals for the integration of housing, transportation, and economic development strategies to—

"(aa) better connect housing and employment while mitigating commuting times;

"(bb) align transportation improvements with housing needs, such as housing supply shortages, and proposed housing development;

"(cc) align planning for housing and transportation to address needs in relationship to household incomes within the metropolitan planning area;

"(dd) expand housing and economic development within the catchment areas of existing transportation facilities and public transportation services when appropriate, including higher-density development, as locally determined;

"(ee) manage effects of growth of vehicle miles traveled experienced in the metropolitan planning area related to housing development and economic development;

"(ff) increase share of households with sufficient and affordable access to the transportation networks of the metropolitan planning area;

"(II) identify the location of existing and planned housing and employment, and transportation options that connect housing and employment; and

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"(III) include a comparison of transportation plans to land use management plans, including zoning plans, that may affect road use, public transportation ridership, and housing development.".

SEC. 11202. FISCAL CONSTRAINT ON LONG-RANGE TRANSPORTATION PLANS.

Not later than 1 year after the date of enactment of this Act, the Secretary shall amend section 450.324(f)(11)(v) of title 23, Code of Federal Regulations, to ensure that the outer years of a metropolitan transportation plan are defined as "beyond the first 4 years".

SEC. 11203. STATE HUMAN CAPITAL PLANS.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 11132(a)), is amended by adding at the end the following:

"§ 174. State human capital plans

"(a) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Secretary shall encourage each State to develop a voluntary plan, to be known as a 'human capital plan', that provides for the immediate and long-term personnel and workforce needs of the State with respect to the capacity of the State to deliver transportation and public infrastructure eligible under this title.

"(b) PLAN CONTENTS.—

"(1) IN GENERAL.—A human capital plan developed by a State under subsection (a) shall, to the maximum extent practicable, take into consideration—

"(A) significant transportation workforce trends, needs, issues, and challenges with respect to the State;

"(B) the human capital policies, strategies, and performance measures that will guide the transportation-related workforce investment decisions of the State;

"(C) coordination with educational institutions, industry, organized labor, workforce boards, and other agencies or organizations to address the human capital transportation needs of the State;

"(D) a workforce planning strategy that identifies current and future human capital needs, including the knowledge, skills, and abilities needed to recruit and retain skilled workers in the transportation industry;

"(E) a human capital management strategy that is aligned with the transportation mission, goals, and organizational objectives of the State;

"(F) an implementation system for workforce goals focused on addressing continuity of leadership and knowledge sharing across the State;

"(G) an implementation system that addresses workforce competency gaps, particularly in mission-critical occupations;

"(H) in the case of public-private partnerships or other alternative project delivery methods to carry out the transportation program of the State, a description of workforce needs—

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"(i) to ensure that the transportation mission, goals, and organizational objectives of the State are fully carried out; and

"(ii) to ensure that procurement methods provide the best public value;

"(I) a system for analyzing and evaluating the performance of the State department of transportation with respect to all aspects of human capital management policies, programs, and activities; and

"(J) the manner in which the plan will improve the ability of the State to meet the national policy in support of performance management established under section 150.

"(2) PLANNING PERIOD.—If a State develops a human capital plan under subsection (a), the plan shall address a 5-year forecast period.

"(c) PLAN UPDATES.—If a State develops a human capital plan under subsection (a), the State shall update the plan not less frequently than once every 5 years.

"(d) RELATIONSHIP TO LONG-RANGE PLAN.—

"(1) IN GENERAL.—Subject to paragraph (2), a human capital plan developed by a State under subsection (a) may be developed separately from, or incorporated into, the long-range statewide transportation plan required under section 135.

"(2) EFFECT OF SECTION.—Nothing in this section requires a State, or authorizes the Secretary to require a State, to incorporate a human capital plan into the long-range statewide transportation plan required under section 135.

"(e) PUBLIC AVAILABILITY.—Each State that develops a human capital plan under subsection (a) shall make a copy of the plan available to the public in a user-friendly format on the website of the State department of transportation.

"(f) SAVINGS PROVISION.—Nothing in this section prevents a State from carrying out transportation workforce planning—

"(1) not described in this section; or

"(2) not in accordance with this section.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 11132(b)), is amended by inserting after the item relating to section 173 the following:

"174. State human capital plans.".

SEC. 11204. PRIORITIZATION PROCESS PILOT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term "eligible entity" means any of the following:

(A) A metropolitan planning organization that serves an area with a population of over 200,000.

(B) A State.

(2) METROPOLITAN PLANNING ORGANIZATION.—The term "metropolitan planning organization" has the meaning given the term in section 134(b) of title 23, United States Code.

(3) PRIORITIZATION PROCESS PILOT PROGRAM.—The term "prioritization process pilot program" means the pilot program established under subsection (b)(1).

(b) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish and solicit applications for a prioritization process pilot program.

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(2) PURPOSE.—The purpose of the prioritization process pilot program shall be to support data-driven approaches to planning that, on completion, can be evaluated for public benefit.

(c) PILOT PROGRAM ADMINISTRATION.—

(1) IN GENERAL.—An eligible entity participating in the prioritization process pilot program shall—

(A) use priority objectives that are developed—

(i) in the case of an urbanized area with a population of over 200,000, by the metropolitan planning organization that serves the area, in consultation with the State;

(ii) in the case of an urbanized area with a population of 200,000 or fewer, by the State in consultation with all metropolitan planning organizations in the State; and

(iii) through a public process that provides an opportunity for public input;

(B) assess and score projects and strategies on the basis of—

(i) the contribution and benefits of the project or strategy to each priority objective developed under subparagraph (A);

(ii) the cost of the project or strategy relative to the contribution and benefits assessed and scored under clause (i); and

(iii) public support;

(C) use the scores assigned under subparagraph (B) to guide project selection in the development of the transportation plan and transportation improvement program; and

(D) ensure that the public—

(i) has opportunities to provide public comment on projects before decisions are made on the transportation plan and the transportation improvement program; and

(ii) has access to clear reasons why each project or strategy was selected or not selected.

(2) REQUIREMENTS.—An eligible entity that receives a grant under the prioritization process pilot program shall use the funds as described in each of the following, as applicable:

(A) METROPOLITAN TRANSPORTATION PLANNING.—In the case of a metropolitan planning organization that serves an area with a population of over 200,000, the entity shall—

(i) develop and implement a publicly accessible, transparent prioritization process for the selection of projects for inclusion on the transportation plan for the metropolitan planning area under section 134(i) of title 23, United States Code, and section 5303(i) of title 49, United States Code, which shall—

(I) include criteria identified by the metropolitan planning organization, which may be weighted to reflect the priority objectives developed under paragraph (1)(A), that the metropolitan planning organization has determined support—

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(aa) factors described in section 134(h) of title 23, United States Code, and section 5303(h) of title 49, United States Code;

(bb) targets for national performance measures under section 150(b) of title 23, United States Code;

(cc) applicable transportation goals in the metropolitan planning area or State set by the applicable transportation agency; and

(dd) priority objectives developed under paragraph (1)(A);

(II) evaluate the outcomes for each proposed project on the basis of the benefits of the proposed project with respect to each of the criteria described in subclause (I) relative to the cost of the proposed project; and

(III) use the evaluation under subclause (II) to create a ranked list of proposed projects; and

(ii) with respect to the priority list under section 134(j)(2)(A) of title 23 and section 5303(j)(2)(A) of title 49, United States Code, include projects according to the rank of the project under clause (i)(III), except as provided in subparagraph (D).

(B) STATEWIDE TRANSPORTATION PLANNING.—In the case of a State, the State shall—

(i) develop and implement a publicly accessible, transparent process for the selection of projects for inclusion on the long-range statewide transportation plan under section 135(f) of title 23, United States Code, which shall—

(I) include criteria identified by the State, which may be weighted to reflect statewide priorities, that the State has determined support—

(aa) factors described in section 135(d) of title 23, United States Code, and section 5304(d) of title 49, United States Code;

(bb) national transportation goals under section 150(b) of title 23, United States Code;

(cc) applicable transportation goals in the State; and

(dd) the priority objectives developed under paragraph (1)(A);

(II) evaluate the outcomes for each proposed project on the basis of the benefits of the proposed project with respect to each of the criteria described in subclause (I) relative to the cost of the proposed project; and

(III) use the evaluation under subclause (II) to create a ranked list of proposed projects; and

(ii) with respect to the statewide transportation improvement program under section 135(g) of title 23, United States Code, and section 5304(g) of title 49, United States Code, include projects according to the rank of the project under clause (i)(III), except as provided in subparagraph (D).

(C) ADDITIONAL TRANSPORTATION PLANNING.—If the eligible entity has implemented, and has in effect, the

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requirements under subparagraph (A) or (B), as applicable, the eligible entity may use any remaining funds from a grant provided under the pilot program for any transportation planning purpose.

(D) EXCEPTIONS TO PRIORITY RANKING.—In the case of any project that the eligible entity chooses to include or not include in the transportation improvement program under section 134(j) of title 23, United States Code, or the statewide transportation improvement program under section 135(g) of title 23, United States Code, as applicable, in a manner that is contrary to the priority ranking for that project established under subparagraph (A)(i)(III) or (B)(i)(III), the eligible entity shall make publicly available an explanation for the decision, including—

(i) a review of public comments regarding the project;

(ii) an evaluation of public support for the project;

(iii) an assessment of geographic balance of projects of the eligible entity; and

(iv) the number of projects of the eligible entity in economically distressed areas.

(3) MAXIMUM AMOUNT.—The maximum amount of a grant under the prioritization process pilot program is $2,000,000.

(d) APPLICATIONS.—To be eligible to participate in the prioritization process pilot program, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

SEC. 11205. TRAVEL DEMAND DATA AND MODELING.

(a) DEFINITION OF METROPOLITAN PLANNING ORGANIZATION.—In this section, the term "metropolitan planning organization" has the meaning given the term in section 134(b) of title 23, United States Code.

(b) STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, and not less frequently than once every 5 years thereafter, the Secretary shall carry out a study that—

(A) gathers travel data and travel demand forecasts from a representative sample of States and metropolitan planning organizations;

(B) uses the data and forecasts gathered under subparagraph (A) to compare travel demand forecasts with the observed data, including—

(i) traffic counts;

(ii) travel mode share and public transit ridership; and

(iii) vehicle occupancy measures; and

(C) uses the information described in subparagraphs (A) and (B)—

(i) to develop best practices or guidance for States and metropolitan planning organizations to use in forecasting travel demand for future investments in transportation improvements;

(ii) to evaluate the impact of transportation investments, including new roadway capacity, on travel

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behavior and travel demand, including public transportation ridership, induced highway travel, and congestion;

(iii) to support more accurate travel demand forecasting by States and metropolitan planning organizations; and

(iv) to enhance the capacity of States and metropolitan planning organizations—

(I) to forecast travel demand; and

(II) to track observed travel behavior responses, including induced travel, to changes in transportation capacity, pricing, and land use patterns.

(2) SECRETARIAL SUPPORT.—The Secretary shall seek opportunities to support the transportation planning processes under sections 134 and 135 of title 23, United States Code, through the provision of data to States and metropolitan planning organizations to improve the quality of plans, models, and forecasts described in this subsection.

(3) EVALUATION TOOL.—The Secretary shall develop a publicly available multimodal web-based tool for the purpose of enabling States and metropolitan planning organizations to evaluate the effect of investments in highway and public transportation projects on the use and conditions of all transportation assets within the State or area served by the metropolitan planning organization, as applicable.

SEC. 11206. INCREASING SAFE AND ACCESSIBLE TRANSPORTATION OPTIONS.

(a) DEFINITION OF COMPLETE STREETS STANDARDS OR POLICIES.—In this section, the term "Complete Streets standards or policies" means standards or policies that ensure the safe and adequate accommodation of all users of the transportation system, including pedestrians, bicyclists, public transportation users, children, older individuals, individuals with disabilities, motorists, and freight vehicles.

(b) FUNDING REQUIREMENT.—Notwithstanding any other provision of law, each State and metropolitan planning organization shall use to carry out 1 or more activities described in subsection (c)—

(1) in the case of a State, not less than 2.5 percent of the amounts made available to the State to carry out section 505 of title 23, United States Code; and

(2) in the case of a metropolitan planning organization, not less than 2.5 percent of the amounts made available to the metropolitan planning organization under section 104(d) of title 23, United States Code.

(c) ACTIVITIES DESCRIBED.—An activity referred to in subsection (b) is an activity to increase safe and accessible options for multiple travel modes for people of all ages and abilities, which, if permissible under applicable State and local laws, may include—

(1) adoption of Complete Streets standards or policies;

(2) development of a Complete Streets prioritization plan that identifies a specific list of Complete Streets projects to improve the safety, mobility, or accessibility of a street;

(3) development of transportation plans—

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(A) to create a network of active transportation facilities, including sidewalks, bikeways, or pedestrian and bicycle trails, to connect neighborhoods with destinations such as workplaces, schools, residences, businesses, recreation areas, healthcare and child care services, or other community activity centers;

(B) to integrate active transportation facilities with public transportation service or improve access to public transportation;

(C) to create multiuse active transportation infrastructure facilities, including bikeways or pedestrian and bicycle trails, that make connections within or between communities;

(D) to increase public transportation ridership; and

(E) to improve the safety of bicyclists and pedestrians;

(4) regional and megaregional planning to address travel demand and capacity constraints through alternatives to new highway capacity, including through intercity passenger rail; and

(5) development of transportation plans and policies that support transit-oriented development.

(d) FEDERAL SHARE.—The Federal share of the cost of an activity carried out under this section shall be 80 percent, unless the Secretary determines that the interests of the Federal-aid highway program would be best served by decreasing or eliminating the non-Federal share.

(e) STATE FLEXIBILITY.—A State or metropolitan planning organization, with the approval of the Secretary, may opt out of the requirements of this section if the State or metropolitan planning organization demonstrates to the Secretary, by not later than 30 days before the Secretary apportions funds for a fiscal year under section 104, that the State or metropolitan planning organization—

(1) has Complete Streets standards and policies in place; and

(2) has developed an up-to-date Complete Streets prioritization plan as described in subsection (c)(2).

Subtitle C—Project Delivery and Process Improvement

SEC. 11301. CODIFICATION OF ONE FEDERAL DECISION.

(a) IN GENERAL.—Section 139 of title 23, United States Code, is amended—

(1) in the section heading, by striking "**decisionmaking**" and inserting "**decisionmaking and One Federal Decision**";

(2) in subsection (a)—

(A) by redesignating paragraphs (2) through (8) as paragraphs (4), (5), (6), (8), (9), (10), and (11), respectively;

(B) by inserting after paragraph (1) the following:

"(2) AUTHORIZATION.—The term 'authorization' means any environmental license, permit, approval, finding, or other administrative decision related to the environmental review process that is required under Federal law to site, construct, or reconstruct a project.

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"(3) ENVIRONMENTAL DOCUMENT.—The term 'environmental document' includes an environmental assessment, finding of no significant impact, notice of intent, environmental impact statement, or record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).";

(C) in subparagraph (B) of paragraph (5) (as so redesignated), by striking "process for and completion of any environmental permit" and inserting "process and schedule, including a timetable for and completion of any environmental permit"; and

(D) by inserting after paragraph (6) (as so redesignated) the following:

"(7) MAJOR PROJECT.—

"(A) IN GENERAL.—The term 'major project' means a project for which—

"(i) multiple permits, approvals, reviews, or studies are required under a Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(ii) the project sponsor has identified the reasonable availability of funds sufficient to complete the project;

"(iii) the project is not a covered project (as defined in section 41001 of the FAST Act (42 U.S.C. 4370m)); and

"(iv)(I) the head of the lead agency has determined that an environmental impact statement is required; or

"(II) the head of the lead agency has determined that an environmental assessment is required, and the project sponsor requests that the project be treated as a major project.

"(B) CLARIFICATION.—In this section, the term 'major project' does not have the same meaning as the term 'major project' as described in section 106(h).";

(3) in subsection (b)(1)—

(A) by inserting ", including major projects," after "all projects"; and

(B) by inserting "as requested by a project sponsor and" after "applied,";

(4) in subsection (c)—

(A) in paragraph (6)—

(i) in subparagraph (B), by striking "and" at the end;

(ii) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(D) to calculate annually the average time taken by the lead agency to complete all environmental documents for each project during the previous fiscal year."; and

(B) by adding at the end the following:

"(7) PROCESS IMPROVEMENTS FOR PROJECTS.—

"(A) IN GENERAL.—The Secretary shall review—

"(i) existing practices, procedures, rules, regulations, and applicable laws to identify impediments to meeting the requirements applicable to projects under this section; and

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"(ii) best practices, programmatic agreements, and potential changes to internal departmental procedures that would facilitate an efficient environmental review process for projects.

"(B) CONSULTATION.—In conducting the review under subparagraph (A), the Secretary shall consult, as appropriate, with the heads of other Federal agencies that participate in the environmental review process.

"(C) REPORT.—Not later than 2 years after the date of enactment of the Surface Transportation Reauthorization Act of 2021, 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 includes—

"(i) the results of the review under subparagraph (A); and

"(ii) an analysis of whether additional funding would help the Secretary meet the requirements applicable to projects under this section.";

(5) in subsection (d)—

(A) in paragraph (8)—

(i) in the paragraph heading, by striking "NEPA" and inserting "ENVIRONMENTAL";

(ii) in subparagraph (A)—

(I) by inserting "and except as provided in subparagraph (D)" after "paragraph (7)";

(II) by striking "permits" and inserting "authorizations"; and

(III) by striking "single environment document" and inserting "single environmental document for each kind of environmental document";

(iii) in subparagraph (B)(i)—

(I) by striking "an environmental document" and inserting "environmental documents"; and

(II) by striking "permits issued" and inserting "authorizations"; and

(iv) by adding at the end the following:

"(D) EXCEPTIONS.—The lead agency may waive the application of subparagraph (A) with respect to a project if—

"(i) the project sponsor requests that agencies issue separate environmental documents;

"(ii) the obligations of a cooperating agency or participating agency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have already been satisfied with respect to the project; or

"(iii) the lead agency determines that reliance on a single environmental document (as described in subparagraph (A)) would not facilitate timely completion of the environmental review process for the project."; and

(B) by adding at the end the following:

"(10) TIMELY AUTHORIZATIONS FOR MAJOR PROJECTS.—

"(A) DEADLINE.—Except as provided in subparagraph (C), all authorization decisions necessary for the construction of a major project shall be completed by not later

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than 90 days after the date of the issuance of a record of decision for the major project.

"(B) DETAIL.—The final environmental impact statement for a major project shall include an adequate level of detail to inform decisions necessary for the role of the participating agencies and cooperating agencies in the environmental review process.

"(C) EXTENSION OF DEADLINE.—The head of the lead agency may extend the deadline under subparagraph (A) if—

"(i) Federal law prohibits the lead agency or another agency from issuing an approval or permit within the period described in that subparagraph;

"(ii) the project sponsor requests that the permit or approval follow a different timeline; or

"(iii) an extension would facilitate completion of the environmental review and authorization process of the major project.";

(6) in subsection (g)(1)—

(A) in subparagraph (B)—

(i) in clause (ii)(IV), by striking "schedule for and cost of" and inserting "time required by an agency to conduct an environmental review and make decisions under applicable Federal law relating to a project (including the issuance or denial of a permit or license) and the cost of"; and

(ii) by adding at the end the following:

"(iii) MAJOR PROJECT SCHEDULE.—To the maximum extent practicable and consistent with applicable Federal law, in the case of a major project, the lead agency shall develop, in concurrence with the project sponsor, a schedule for the major project that is consistent with an agency average of not more than 2 years for the completion of the environmental review process for major projects, as measured from, as applicable—

"(I) the date of publication of a notice of intent to prepare an environmental impact statement to the record of decision; or

"(II) the date on which the head of the lead agency determines that an environmental assessment is required to a finding of no significant impact.";

(B) by striking subparagraph (D) and inserting the following:

"(D) MODIFICATION.—

"(i) IN GENERAL.—Except as provided in clause (ii), the lead agency may lengthen or shorten a schedule established under subparagraph (B) for good cause.

"(ii) EXCEPTIONS.—

"(I) MAJOR PROJECTS.—In the case of a major project, the lead agency may lengthen a schedule under clause (i) for a cooperating Federal agency by not more than 1 year after the latest deadline established for the major project by the lead agency.

"(II) SHORTENED SCHEDULES.—The lead agency may not shorten a schedule under clause

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(i) if doing so would impair the ability of a cooperating Federal agency to conduct necessary analyses or otherwise carry out relevant obligations of the Federal agency for the project.";

(C) by redesignating subparagraph (E) as subparagraph (F); and

(D) by inserting after subparagraph (D) the following:

"(E) FAILURE TO MEET DEADLINE.—If a cooperating Federal agency fails to meet a deadline established under subparagraph (D)(ii)(I)—

"(i) the cooperating Federal agency shall submit to the Secretary a report that describes the reasons why the deadline was not met; and

"(ii) the Secretary shall—

"(I) transmit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a copy of the report under clause (i); and

"(II) make the report under clause (i) publicly available on the internet.";

(7) in subsection (n), by adding at the end the following:

"(3) LENGTH OF ENVIRONMENTAL DOCUMENT.—

"(A) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subparagraph (B), to the maximum extent practicable, the text of the items described in paragraphs (4) through (6) of section 1502.10(a) of title 40, Code of Federal Regulations (or successor regulations), of an environmental impact statement for a project shall be 200 pages or fewer.

"(B) EXEMPTION.—An environmental impact statement for a project may exceed 200 pages, if the lead agency establishes a new page limit for the environmental impact statement for that project."; and

(8) by adding at the end the following:

"(p) ACCOUNTABILITY AND REPORTING FOR MAJOR PROJECTS.—

"(1) IN GENERAL.—The Secretary shall establish a performance accountability system to track each major project.

"(2) REQUIREMENTS.—The performance accountability system under paragraph (1) shall, for each major project, track, at a minimum—

"(A) the environmental review process for the major project, including the project schedule;

"(B) whether the lead agency, cooperating agencies, and participating agencies are meeting the schedule established for the environmental review process; and

"(C) the time taken to complete the environmental review process.

"(q) DEVELOPMENT OF CATEGORICAL EXCLUSIONS.—

"(1) IN GENERAL.—Not later than 60 days after the date of enactment of this subsection, and every 4 years thereafter, the Secretary shall—

"(A) in consultation with the agencies described in paragraph (2), identify the categorical exclusions described in section 771.117 of title 23, Code of Federal Regulations (or successor regulations), that would accelerate delivery

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of a project if those categorical exclusions were available to those agencies;

"(B) collect existing documentation and substantiating information on the categorical exclusions described in subparagraph (A); and

"(C) provide to each agency described in paragraph (2)—

"(i) a list of the categorical exclusions identified under subparagraph (A); and

"(ii) the documentation and substantiating information under subparagraph (B).

"(2) AGENCIES DESCRIBED.—The agencies referred to in paragraph (1) are—

"(A) the Department of the Interior;

"(B) the Department of the Army;

"(C) the Department of Commerce;

"(D) the Department of Agriculture;

"(E) the Department of Energy;

"(F) the Department of Defense; and

"(G) any other Federal agency that has participated in an environmental review process for a project, as determined by the Secretary.

"(3) ADOPTION OF CATEGORICAL EXCLUSIONS.—

"(A) IN GENERAL.—Not later than 1 year after the date on which the Secretary provides a list under paragraph (1)(C), an agency described in paragraph (2) shall publish a notice of proposed rulemaking to propose any categorical exclusions from the list applicable to the agency, subject to the condition that the categorical exclusion identified under paragraph (1)(A) meets the criteria for a categorical exclusion under section 1508.1 of title 40, Code of Federal Regulations (or successor regulations).

"(B) PUBLIC COMMENT.—In a notice of proposed rulemaking under subparagraph (A), the applicable agency may solicit comments on whether any of the proposed new categorical exclusions meet the criteria for a categorical exclusion under section 1508.1 of title 40, Code of Federal Regulations (or successor regulations).".

(b) CLERICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 139 and inserting the following:

"139. Efficient environmental reviews for project decisionmaking and One Federal Decision.".

SEC. 11302. WORK ZONE PROCESS REVIEWS.

The Secretary shall amend section 630.1008(e) of title 23, Code of Federal Regulations, to ensure that the work zone process review under that subsection is required not more frequently than once every 5 years.

SEC. 11303. TRANSPORTATION MANAGEMENT PLANS.

(a) IN GENERAL.—The Secretary shall amend section 630.1010(c) of title 23, Code of Federal Regulations, to ensure that only a project described in that subsection with a lane closure for 3 or more consecutive days shall be considered to be a significant project for purposes of that section.

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(b) NON-INTERSTATE PROJECTS.—Notwithstanding any other provision of law, a State shall not be required to develop or implement a transportation management plan (as described in section 630.1012 of title 23, Code of Federal Regulations (or successor regulations)) for a highway project not on the Interstate System if the project requires not more than 3 consecutive days of lane closures.

SEC. 11304. INTELLIGENT TRANSPORTATION SYSTEMS.

(a) IN GENERAL.—The Secretary shall develop guidance for using existing flexibilities with respect to the systems engineering analysis described in part 940 of title 23, Code of Federal Regulations (or successor regulations).

(b) IMPLEMENTATION.—The Secretary shall ensure that any guidance developed under subsection (a)—

(1) clearly identifies criteria for low-risk and exempt intelligent transportation systems projects, with a goal of minimizing unnecessary delay or paperwork burden;

(2) is consistently implemented by the Department nationwide; and

(3) is disseminated to Federal-aid recipients.

(c) SAVINGS PROVISION.—Nothing in this section prevents the Secretary from amending part 940 of title 23, Code of Federal Regulations (or successor regulations), to reduce State administrative burdens.

SEC. 11305. ALTERNATIVE CONTRACTING METHODS.

(a) ALTERNATIVE CONTRACTING METHODS FOR FEDERAL LAND MANAGEMENT AGENCIES AND TRIBAL GOVERNMENTS.—Section 201 of title 23, United States Code, is amended by adding at the end the following:

"(f) ALTERNATIVE CONTRACTING METHODS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law (including the Federal Acquisition Regulation), a contracting method available to a State under this title may be used by the Secretary, on behalf of—

"(A) a Federal land management agency, in using any funds pursuant to section 203, 204, or 308;

"(B) a Federal land management agency, in using any funds pursuant to section 1535 of title 31 for any of the eligible uses described in sections 203(a)(1) and 204(a)(1) and paragraphs (1) and (2) of section 308(a); or

"(C) a Tribal government, in using funds pursuant to section 202(b)(7)(D).

"(2) METHODS DESCRIBED.—The contracting methods referred to in paragraph (1) shall include, at a minimum—

"(A) project bundling;

"(B) bridge bundling;

"(C) design-build contracting;

"(D) 2-phase contracting;

"(E) long-term concession agreements; and

"(F) any method tested, or that could be tested, under an experimental program relating to contracting methods carried out by the Secretary.

"(3) EFFECT.—Nothing in this subsection—

"(A) affects the application of the Federal share for the project carried out with a contracting method under this subsection; or

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"(B) modifies the point of obligation of Federal salaries and expenses.".

(b) COOPERATION WITH FEDERAL AND STATE AGENCIES AND FOREIGN COUNTRIES.—Section 308(a) of title 23, United States Code, is amended by adding at the end the following:

"(4) ALTERNATIVE CONTRACTING METHODS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law (including the Federal Acquisition Regulation), in performing services under paragraph (1), the Secretary may use any contracting method available to a State under this title.

"(B) METHODS DESCRIBED.—The contracting methods referred to in subparagraph (A) shall include, at a minimum—

"(i) project bundling;

"(ii) bridge bundling;

"(iii) design-build contracting;

"(iv) 2-phase contracting;

"(v) long-term concession agreements; and

"(vi) any method tested, or that could be tested, under an experimental program relating to contracting methods carried out by the Secretary.".

(c) USE OF ALTERNATIVE CONTRACTING METHODS.—In carrying out an alternative contracting method under section 201(f) or 308(a)(4) of title 23, United States Code, the Secretary shall—

(1) in consultation with the applicable Federal land management agencies, establish clear procedures that are—

(A) applicable to the alternative contracting method; and

(B) to the maximum extent practicable, consistent with the requirements applicable to Federal procurement transactions;

(2) solicit input on the use of the alternative contracting method from the affected industry prior to using the method; and

(3) analyze and prepare an evaluation of the use of the alternative contracting method.

SEC. 11306. FLEXIBILITY FOR PROJECTS.

Section 1420 of the FAST Act (23 U.S.C. 101 note; Public Law 114–94) is amended—

(1) in subsection (a), by striking "and on request by a State, the Secretary may" in the matter preceding paragraph (1) and all that follows through the period at the end of paragraph (2) and inserting the following: ", on request by a State, and if in the public interest (as determined by the Secretary), the Secretary shall exercise all existing flexibilities under—

"(1) the requirements of title 23, United States Code; and

"(2) other requirements administered by the Secretary, in whole or in part."; and

(2) in subsection (b)(2)(A), by inserting "(including regulations)" after "environmental law".

SEC. 11307. IMPROVED FEDERAL-STATE STEWARDSHIP AND OVERSIGHT AGREEMENTS.

(a) DEFINITION OF TEMPLATE.—In this section, the term "template" means a template created by the Secretary for Federal-State stewardship and oversight agreements that—

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(1) includes all standard terms found in stewardship and oversight agreements, including any terms in an attachment to the agreement;

(2) is developed in accordance with section 106 of title 23, United States Code, or any other applicable authority; and

(3) may be developed with consideration of relevant regulations, guidance, or policies.

(b) REQUEST FOR COMMENT.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register the template and a notice requesting public comment on ways to improve the template.

(2) COMMENT PERIOD.—The Secretary shall provide a period of not less than 60 days for public comment on the notice under paragraph (1).

(3) CERTAIN ISSUES.—The notice under paragraph (1) shall allow comment on any aspect of the template and shall specifically request public comment on—

(A) whether the template should be revised to delete standard terms requiring approval by the Secretary of the policies, procedures, processes, or manuals of the States, or other State actions, if Federal law (including regulations) does not specifically require an approval;

(B) opportunities to modify the template to allow adjustments to the review schedules for State practices or actions, including through risk-based approaches, program reviews, process reviews, or other means; and

(C) any other matters that the Secretary determines to be appropriate.

(c) NOTICE OF ACTION; UPDATES.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, after considering the comments received in response to the Federal Register notice under subsection (b), the Secretary shall publish in the Federal Register a notice that—

(A) describes any proposed changes to be made, and any alternatives to such changes, to the template;

(B) addresses comments in response to which changes were not made to the template; and

(C) prescribes a schedule and a plan to execute a process for implementing the changes referred to in subparagraph (A).

(2) APPROVAL REQUIREMENTS.—In addressing comments under paragraph (1)(B), the Secretary shall include an explanation of the basis for retaining any requirement for approval of State policies, procedures, processes, or manuals, or other State actions, if Federal law (including regulations) does not specifically require the approval.

(3) IMPLEMENTATION.—

(A) IN GENERAL.—Not later than 60 days after the date on which the notice under paragraph (1) is published, the Secretary shall make changes to the template in accordance with—

(i) the changes described in the notice under paragraph (1)(A); and

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(ii) the schedule and plan described in the notice under paragraph (1)(C).

(B) UPDATES.—Not later than 1 year after the date on which the revised template under subparagraph (A) is published, the Secretary shall update existing agreements with States according to the template updated under subparagraph (A).

(d) INCLUSION OF NON-STANDARD TERMS.—Nothing in this section precludes the inclusion in a Federal-State stewardship and oversight agreement of non-standard terms to address a State-specific matter, including risk-based stewardship and Department oversight involvement in individual projects of division interest.

(e) COMPLIANCE WITH NON-STATUTORY TERMS.—

(1) IN GENERAL.—The Secretary shall not enforce or otherwise require a State to comply with approval requirements that are not required by Federal law (including regulations) in a Federal-State stewardship and oversight agreement.

(2) APPROVAL AUTHORITY.—Notwithstanding any other provision of law, the Secretary shall not assert approval authority over any matter in a Federal-State stewardship and oversight agreement reserved to States.

(f) FREQUENCY OF REVIEWS.—Section 106(g)(3) of title 23, United States Code, is amended—

(1) by striking "annual";

(2) by striking "The Secretary" and inserting the following:

"(A) IN GENERAL.—The Secretary"; and

(3) by adding at the end the following:

"(B) FREQUENCY.—

"(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the Secretary shall carry out a review under subparagraph (A) not less frequently than once every 2 years.

"(ii) CONSULTATION WITH STATE.—The Secretary, after consultation with a State, may make a determination to carry out a review under subparagraph (A) for that State less frequently than provided under clause (i).

"(iii) CAUSE.—If the Secretary determines that there is a specific reason to require a review more frequently than provided under clause (i) with respect to a State, the Secretary may carry out a review more frequently than provided under that clause.".

SEC. 11308. GEOMATIC DATA.

(a) IN GENERAL.—The Secretary shall develop guidance for the acceptance and use of information obtained from a non-Federal entity through geomatic techniques, including remote sensing and land surveying, cartography, geographic information systems, global navigation satellite systems, photogrammetry, or other remote means.

(b) CONSIDERATIONS.—In carrying out this section, the Secretary shall ensure that acceptance or use of information described in subsection (a) meets the data quality and operational requirements of the Secretary.

(c) PUBLIC COMMENT.—Before issuing any final guidance under subsection (a), the Secretary shall provide to the public—

(1) notice of the proposed guidance; and

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(2) an opportunity to comment on the proposed guidance.

(d) SAVINGS CLAUSE.—Nothing in this section—

(1) requires the Secretary to accept or use information that the Secretary determines does not meet the guidance developed under this section; or

(2) changes the current statutory or regulatory requirements of the Department.

SEC. 11309. EVALUATION OF PROJECTS WITHIN AN OPERATIONAL RIGHT-OF-WAY.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by adding at the end the following:

"§ 331. Evaluation of projects within an operational right-of-way

"(a) DEFINITIONS.—

"(1) ELIGIBLE PROJECT OR ACTIVITY.—

"(A) IN GENERAL.—In this section, the term 'eligible project or activity' means a project or activity within an existing operational right-of-way (as defined in section 771.117(c)(22) of title 23, Code of Federal Regulations (or successor regulations))—

"(i)(I) eligible for assistance under this title; or

"(II) administered as if made available under this title;

"(ii) that is—

"(I) a preventive maintenance, preservation, or highway safety improvement project (as defined in section 148(a)); or

"(II) a new turn lane that the State advises in writing to the Secretary would assist public safety; and

"(iii) that—

"(I) is classified as a categorical exclusion under section 771.117 of title 23, Code of Federal Regulations (or successor regulations); or

"(II) if the project or activity does not receive assistance described in clause (i) would be considered a categorical exclusion if the project or activity received assistance described in clause (i).

"(B) EXCLUSION.—The term 'eligible project or activity' does not include a project to create a new travel lane.

"(2) PRELIMINARY EVALUATION.—The term 'preliminary evaluation', with respect to an application described in subsection (b)(1), means an evaluation that is customary or practicable for the relevant agency to complete within a 45-day period for similar applications.

"(3) RELEVANT AGENCY.—The term 'relevant agency' means a Federal agency, other than the Federal Highway Administration, with responsibility for review of an application from a State for a permit, approval, or jurisdictional determination for an eligible project or activity.

"(b) ACTION REQUIRED.—

"(1) IN GENERAL.—Subject to paragraph (2), not later than 45 days after the date of receipt of an application by a State for a permit, approval, or jurisdictional determination for an

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eligible project or activity, the head of the relevant agency shall—

"(A) make at least a preliminary evaluation of the application; and

"(B) notify the State of the results of the preliminary evaluation under subparagraph (A).

"(2) EXTENSION.—The head of the relevant agency may extend the review period under paragraph (1) by not more than 30 days if the head of the relevant agency provides to the State written notice that includes an explanation of the need for the extension.

"(3) FAILURE TO ACT.—If the head of the relevant agency fails to meet a deadline under paragraph (1) or (2), as applicable, the head of the relevant agency shall—

"(A) not later than 30 days after the date of the missed deadline, submit to the State, 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 why the deadline was missed; and

"(B) not later than 14 days after the date on which a report is submitted under subparagraph (A), make publicly available, including on the internet, a copy of that report.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by adding at the end the following:

"331. Evaluation of projects within an operational right-of-way.".

SEC. 11310. PRELIMINARY ENGINEERING.

(a) IN GENERAL.—Section 102 of title 23, United States Code, is amended—

(1) by striking subsection (b); and

(2) in subsection (a), in the second sentence, by striking "Nothing in this subsection" and inserting the following:

"(b) SAVINGS PROVISION.—Nothing in this section".

(b) CONFORMING AMENDMENT.—Section 144(j) of title 23, United States Code, is amended by striking paragraph (6).

SEC. 11311. EFFICIENT IMPLEMENTATION OF NEPA FOR FEDERAL LAND MANAGEMENT PROJECTS.

Section 203 of title 23, United States Code, is amended by adding at the end the following:

"(e) EFFICIENT IMPLEMENTATION OF NEPA.—

"(1) DEFINITIONS.—In this subsection:

"(A) ENVIRONMENTAL DOCUMENT.—The term 'environmental document' means an environmental impact statement, environmental assessment, categorical exclusion, or other document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(B) PROJECT.—The term 'project' means a highway project, public transportation capital project, or multimodal project that—

"(i) receives funds under this title; and

"(ii) is authorized under this section or section 204.

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"(C) PROJECT SPONSOR.—The term 'project sponsor' means the Federal land management agency that seeks or receives funds under this title for a project.

"(2) ENVIRONMENTAL REVIEW TO BE COMPLETED BY FEDERAL HIGHWAY ADMINISTRATION.—The Federal Highway Administration may prepare an environmental document pursuant to the implementing procedures of the Federal Highway Administration to comply with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if—

"(A) requested by a project sponsor; and

"(B) all areas of analysis required by the project sponsor can be addressed.

"(3) FEDERAL LAND MANAGEMENT AGENCIES ADOPTION OF EXISTING ENVIRONMENTAL REVIEW DOCUMENTS.—

"(A) IN GENERAL.—To the maximum extent practicable, if the Federal Highway Administration prepares an environmental document pursuant to paragraph (2), that environmental document shall address all areas of analysis required by a Federal land management agency.

"(B) INDEPENDENT EVALUATION.—Notwithstanding any other provision of law, a Federal land management agency shall not be required to conduct an independent evaluation to determine the adequacy of an environmental document prepared by the Federal Highway Administration pursuant to paragraph (2).

"(C) USE OF SAME DOCUMENT.—In authorizing or implementing a project, a Federal land management agency may use an environmental document previously prepared by the Federal Highway Administration for a project addressing the same or substantially the same action to the same extent that the Federal land management agency could adopt or use a document previously prepared by another Federal agency.

"(4) APPLICATION BY FEDERAL LAND MANAGEMENT AGENCIES OF CATEGORICAL EXCLUSIONS ESTABLISHED BY FEDERAL HIGHWAY ADMINISTRATION.—In carrying out requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for a project, the project sponsor may use categorical exclusions designated under that Act in the implementing regulations of the Federal Highway Administration, subject to the conditions that—

"(A) the project sponsor makes a determination, in consultation with the Federal Highway Administration, that the categorical exclusion applies to the project;

"(B) the project satisfies the conditions for a categorical exclusion under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

"(C) the use of the categorical exclusion does not otherwise conflict with the implementing regulations of the project sponsor, except any list of the project sponsor that designates categorical exclusions.

"(5) MITIGATION COMMITMENTS.—The Secretary shall assist the Federal land management agency with all design and mitigation commitments made jointly by the Secretary and the project sponsor in any environmental document prepared by the Secretary in accordance with this subsection.".

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SEC. 11312. NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 REPORTING PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by inserting after section 156 the following:

"§ 157. National Environmental Policy Act of 1969 reporting program

"(a) DEFINITIONS.—In this section:

"(1) CATEGORICAL EXCLUSION.—The term 'categorical exclusion' has the meaning given the term in section 771.117(c) of title 23, Code of Federal Regulations (or a successor regulation).

"(2) DOCUMENTED CATEGORICAL EXCLUSION.—The term 'documented categorical exclusion' has the meaning given the term in section 771.117(d) of title 23, Code of Federal Regulations (or a successor regulation).

"(3) ENVIRONMENTAL ASSESSMENT.—The term 'environmental assessment' has the meaning given the term in section 1508.1 of title 40, Code of Federal Regulations (or a successor regulation).

"(4) ENVIRONMENTAL IMPACT STATEMENT.—The term 'environmental impact statement' means a detailed statement required under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

"(5) FEDERAL AGENCY.—The term 'Federal agency' includes a State that has assumed responsibility under section 327.

"(6) NEPA PROCESS.—The term 'NEPA process' means the entirety of the development and documentation of the analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), including the assessment and analysis of any impacts, alternatives, and mitigation of a proposed action, and any interagency participation and public involvement required to be carried out before the Secretary undertakes a proposed action.

"(7) PROPOSED ACTION.—The term 'proposed action' means an action (within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)) under this title that the Secretary proposes to carry out.

"(8) REPORTING PERIOD.—The term 'reporting period' means the fiscal year prior to the fiscal year in which a report is issued under subsection (b).

"(9) SECRETARY.—The term 'Secretary' includes the governor or head of an applicable State agency of a State that has assumed responsibility under section 327.

"(b) REPORT ON NEPA DATA.—

"(1) IN GENERAL.—The Secretary shall 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, the information described in paragraph (3).

"(2) TIME TO COMPLETE.—For purposes of paragraph (3), the NEPA process—

"(A) for an environmental impact statement—

"(i) begins on the date on which the Notice of Intent is published in the Federal Register; and

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"(ii) ends on the date on which the Secretary issues a record of decision, including, if necessary, a revised record of decision; and

"(B) for an environmental assessment—

"(i) begins on the date on which the Secretary makes a determination to prepare an environmental assessment; and

"(ii) ends on the date on which the Secretary issues a finding of no significant impact or determines that preparation of an environmental impact statement is necessary.

"(3) INFORMATION DESCRIBED.—The information referred to in paragraph (1) is, with respect to the Department of Transportation—

"(A) the number of proposed actions for which a categorical exclusion was issued during the reporting period;

"(B) the number of proposed actions for which a documented categorical exclusion was issued by the Department of Transportation during the reporting period;

"(C) the number of proposed actions pending on the date on which the report is submitted for which the issuance of a documented categorical exclusion by the Department of Transportation is pending;

"(D) the number of proposed actions for which an environmental assessment was issued by the Department of Transportation during the reporting period;

"(E) the length of time the Department of Transportation took to complete each environmental assessment described in subparagraph (D);

"(F) the number of proposed actions pending on the date on which the report is submitted for which an environmental assessment is being drafted by the Department of Transportation;

"(G) the number of proposed actions for which an environmental impact statement was completed by the Department of Transportation during the reporting period;

"(H) the length of time that the Department of Transportation took to complete each environmental impact statement described in subparagraph (G);

"(I) the number of proposed actions pending on the date on which the report is submitted for which an environmental impact statement is being drafted; and

"(J) for the proposed actions reported under subparagraphs (F) and (I), the percentage of those proposed actions for which—

"(i) funding has been identified; and

"(ii) all other Federal, State, and local activities that are required to allow the proposed action to proceed are completed.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 156 the following:

"157. National Environmental Policy Act of 1969 reporting program.".

SEC. 11313. SURFACE TRANSPORTATION PROJECT DELIVERY PROGRAM WRITTEN AGREEMENTS.

Section 327 of title 23, United States Code, is amended—

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(1) in subsection (a)(2)(G), by inserting ", including the payment of fees awarded under section 2412 of title 28" before the period at the end;

(2) in subsection (c)—

(A) by striking paragraph (5) and inserting the following:

"(5) except as provided under paragraph (7), have a term of not more than 5 years;";

(B) in paragraph (6), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(7) for any State that has participated in a program under this section (or under a predecessor program) for at least 10 years, have a term of 10 years.";

(3) in subsection (g)(1)—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C), by striking "annual";

(C) by redesignating subparagraph (C) as subparagraph (D); and

(D) by inserting after subparagraph (B) the following:

"(C) in the case of an agreement period of greater than 5 years pursuant to subsection (c)(7), conduct an audit covering the first 5 years of the agreement period; and"; and

(4) by adding at the end the following:

"(m) AGENCY DEEMED TO BE FEDERAL AGENCY.—A State agency that is assigned a responsibility under an agreement under this section shall be deemed to be an agency for the purposes of section 2412 of title 28.".

SEC. 11314. STATE ASSUMPTION OF RESPONSIBILITY FOR CATEGORICAL EXCLUSIONS.

Section 326(c)(3) of title 23, United States Code, is amended—

(1) by striking subparagraph (A) and inserting the following:

"(A) except as provided under subparagraph (C), shall have a term of not more than 3 years;";

(2) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(C) shall have 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 123 of title 23, United States Code, is amended to read as follows:

"§ 123. Relocation of utility facilities

"(a) DEFINITIONS.—In this section:

"(1) COST OF RELOCATION.—The term 'cost of relocation' includes the entire amount paid by a utility properly attributable to the relocation of a utility facility, minus any increase in the value of the new facility and any salvage value derived from the old facility.

"(2) EARLY UTILITY RELOCATION PROJECT.—The term 'early utility relocation project' means utility relocation activities

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identified by the State for performance before completion of the environmental review process for the transportation project.

"(3) ENVIRONMENTAL REVIEW PROCESS.—The term 'environmental review process' has the meaning given the term in section 139(a).

"(4) TRANSPORTATION PROJECT.—The term 'transportation project' means a project.

"(5) UTILITY FACILITY.—The term 'utility facility' means any privately, publicly, or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, stormwater not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, that directly or indirectly serves the public.

"(6) UTILITY RELOCATION ACTIVITY.—The term 'utility relocation activity' means an activity necessary for the relocation of a utility facility, including preliminary and final design, surveys, real property acquisition, materials acquisition, and construction.

"(b) REIMBURSEMENT TO STATES.—

"(1) IN GENERAL.—If a State pays for the cost of relocation of a utility facility necessitated by the construction of a transportation project, Federal funds may be used to reimburse the State for the cost of relocation in the same proportion as Federal funds are expended on the transportation project.

"(2) LIMITATION.—Federal funds shall not be used to reimburse a State under this section if the payment to the utility—

"(A) violates the law of the State; or

"(B) violates a legal contract between the utility and the State.

"(3) REQUIREMENT.—A reimbursement under paragraph (1) shall be made only if the State demonstrates to the satisfaction of the Secretary that the State paid the cost of the utility relocation activity from funds of the State with respect to transportation projects for which Federal funds are obligated subsequent to April 16, 1958, for work, including utility relocation activities.

"(4) REIMBURSEMENT ELIGIBILITY FOR EARLY RELOCATION PRIOR TO TRANSPORTATION PROJECT ENVIRONMENTAL REVIEW PROCESS.—

"(A) IN GENERAL.—In addition to the requirements under paragraphs (1) through (3), a State may carry out, at the expense of the State, an early utility relocation project for a transportation project before completion of the environmental review process for the transportation project.

"(B) REQUIREMENTS FOR REIMBURSEMENT.—Funds apportioned to a State under this title may be used to pay the costs incurred by the State for an early utility relocation project only if the State demonstrates to the Secretary, and the Secretary finds that—

"(i) the early utility relocation project is necessary to accommodate a transportation project;

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"(ii) the State provides adequate documentation to the Secretary of eligible costs incurred by the State for the early utility relocation project;

"(iii) before the commencement of the utility relocation activities, an environmental review process was completed for the early utility relocation project that resulted in a finding that the early utility relocation project—

"(I) would not result in significant adverse environmental impacts; and

"(II) would comply with other applicable Federal environmental requirements;

"(iv) the early utility relocation project did not influence—

"(I) the environmental review process for the transportation project;

"(II) the decision relating to the need to construct the transportation project; or

"(III) the selection of the transportation project design or location;

"(v) the early utility relocation project complies with all applicable provisions of law, including regulations issued pursuant to this title;

"(vi) the early utility relocation project follows applicable financial procedures and requirements, including documentation of eligible costs and the requirements under section 109(l), but not including requirements applicable to authorization and obligation of Federal funds;

"(vii) the transportation project for which the early utility relocation project was necessitated was included in the applicable transportation improvement program under section 134 or 135;

"(viii) before the cost incurred by a State is approved for Federal participation, environmental compliance pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been completed for the transportation project for which the early utility relocation project was necessitated; and

"(ix) the transportation project that necessitated the utility relocation activity is approved for construction.

"(C) SAVINGS PROVISION.—Nothing in this paragraph affects other eligibility requirements or authorities for Federal participation in payment of costs incurred for utility relocation activities.

"(c) APPLICABILITY OF OTHER PROVISIONS.—Nothing in this section affects the applicability of other requirements that would otherwise apply to an early utility relocation project, including any applicable requirements under—

"(1) section 138;

"(2) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.), including regulations under part 24 of title 49, Code of Federal Regulations (or successor regulations);

"(3) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); or

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"(4) an environmental review process.".

SEC. 11316. STREAMLINING OF SECTION 4(F) REVIEWS.

Section 138(a) of title 23, United States Code, is amended—

(1) in the fourth sentence, by striking "In carrying out" and inserting the following:

"(4) STUDIES.—In carrying out";

(2) in the third sentence—

(A) by striking "such land, and (2) such program" and inserting the following: "the land; and

"(B) the program";

(B) by striking "unless (1) there is" and inserting the following: "unless—

"(A) there is"; and

(C) by striking "After the" and inserting the following: "(3) REQUIREMENT.—After the";

(3) in the second sentence—

(A) by striking "The Secretary of Transportation" and inserting the following:

"(2) COOPERATION AND CONSULTATION.—

"(A) IN GENERAL.—The Secretary"; and

(B) by adding at the end the following:

"(B) TIMELINE FOR APPROVALS.—

"(i) IN GENERAL.—The Secretary shall—

"(I) provide an evaluation under this section to the Secretaries described in subparagraph (A); and

"(II) provide a period of 30 days for receipt of comments.

"(ii) ASSUMED ACCEPTANCE.—If the Secretary does not receive comments by 15 days after the deadline under clause (i)(II), the Secretary shall assume a lack of objection and proceed with the action.

"(C) EFFECT.—Nothing in subparagraph (B) affects—

"(i) the requirements under—

"(I) subsections (b) through (f); or

"(II) the consultation process under section 306108 of title 54; or

"(ii) programmatic section 4(f) evaluations, as described in regulations issued by the Secretary."; and

(4) in the first sentence, by striking "It is declared to be" and inserting the following:

"(1) IN GENERAL.—It is".

SEC. 11317. CATEGORICAL EXCLUSION FOR PROJECTS OF LIMITED FEDERAL ASSISTANCE.

Section 1317(1) of MAP–21 (23 U.S.C. 109 note; Public Law 112–141) is amended—

(1) in subparagraph (A), by striking "$5,000,000" and inserting "$6,000,000"; and

(2) in subparagraph (B), by striking "$30,000,000" and inserting "$35,000,000".

SEC. 11318. CERTAIN GATHERING LINES LOCATED ON FEDERAL LAND AND INDIAN LAND.

(a) DEFINITIONS.—In this section:

(1) FEDERAL LAND.—

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(A) IN GENERAL.—The term "Federal land" means land the title to which is held by the United States.

(B) EXCLUSIONS.—The term "Federal land" does not include—

(i) a unit of the National Park System;

(ii) a unit of the National Wildlife Refuge System;

(iii) a component of the National Wilderness Preservation System;

(iv) a wilderness study area within the National Forest System; or

(v) Indian land.

(2) GATHERING LINE AND ASSOCIATED FIELD COMPRESSION OR PUMPING UNIT.—

(A) IN GENERAL.—The term "gathering line and associated field compression or pumping unit" means—

(i) a pipeline that is installed to transport oil, natural gas and related constituents, or produced water from 1 or more wells drilled and completed to produce oil or gas; and

(ii) if necessary, 1 or more compressors or pumps to raise the pressure of the transported oil, natural gas and related constituents, or produced water to higher pressures necessary to enable the oil, natural gas and related constituents, or produced water to flow into pipelines and other facilities.

(B) INCLUSIONS.—The term "gathering line and associated field compression or pumping unit" includes a pipeline or associated compression or pumping unit that is installed to transport oil or natural gas from a processing plant to a common carrier pipeline or facility.

(C) EXCLUSIONS.—The term "gathering line and associated field compression or pumping unit" does not include a common carrier pipeline.

(3) INDIAN LAND.—The term "Indian land" means land the title to which is held by—

(A) the United States in trust for an Indian Tribe or an individual Indian; or

(B) an Indian Tribe or an individual Indian subject to a restriction by the United States against alienation.

(4) PRODUCED WATER.—The term "produced water" means water produced from an oil or gas well bore that is not a fluid prepared at, or transported to, the well site to resolve a specific oil or gas well bore or reservoir condition.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(b) CERTAIN GATHERING LINES.—

(1) IN GENERAL.—Subject to paragraph (2), the issuance of a sundry notice or right-of-way for a gathering line and associated field compression or pumping unit that is located on Federal land or Indian land and that services any oil or gas well may be considered by the Secretary to be an action that is categorically excluded (as defined in section 1508.1 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act)) for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if the gathering line and associated field compression or pumping unit—

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(A) are within a field or unit for which an approved land use plan or an environmental document prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) analyzed transportation of oil, natural gas, or produced water from 1 or more oil or gas wells in the field or unit as a reasonably foreseeable activity;

(B) are located adjacent to or within—

(i) any existing disturbed area; or

(ii) an existing corridor for a right-of-way; and

(C) would reduce—

(i) in the case of a gathering line and associated field compression or pumping unit transporting methane, the total quantity of methane that would otherwise be vented, flared, or unintentionally emitted from the field or unit; or

(ii) in the case of a gathering line and associated field compression or pumping unit not transporting methane, the vehicular traffic that would otherwise service the field or unit.

(2) APPLICABILITY.—Paragraph (1) shall apply to Indian land, or a portion of Indian land—

(A) to which the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applies; and

(B) for which the Indian Tribe with jurisdiction over the Indian land submits to the Secretary a written request that paragraph (1) apply to that Indian land (or portion of Indian land).

(c) EFFECT ON OTHER LAW.—Nothing in this section—

(1) affects or alters any requirement—

(A) relating to prior consent under—

(i) section 2 of the Act of February 5, 1948 (62 Stat. 18, chapter 45; 25 U.S.C. 324); or

(ii) section 16(e) of the Act of June 18, 1934 (48 Stat. 987, chapter 576; 102 Stat. 2939; 114 Stat. 47; 25 U.S.C. 5123(e)) (commonly known as the "Indian Reorganization Act");

(B) under section 306108 of title 54, United States Code; or

(C) under any other Federal law (including regulations) relating to Tribal consent for rights-of-way across Indian land; or

(2) makes the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable to land to which that Act otherwise would not apply.

SEC. 11319. ANNUAL REPORT.

(a) DEFINITION OF COVERED PROJECT.—In this section, the term "covered project" means a project or activity carried out with funds provided by the Department, including a project carried out under title 23 or 49, United States Code—

(1) that is more than 5 years behind schedule; or

(2) for which the total amount spent on the project or activity is not less than $1,000,000,000 more than the original cost estimate for the project or activity.

(b) REQUIREMENT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall

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submit to Congress a report on covered projects of the Department, which shall include, for each covered project—

(1) a brief description of the covered project, including—

(A) the purpose of the covered project;

(B) each location in which the covered project is carried out;

(C) the contract or award number of the covered project, if applicable;

(D) the year in which the covered project was initiated;

(E) the Federal share of the total cost of the covered project; and

(F) each primary contractor, subcontractor, grant recipient, and subgrantee recipient of the covered project;

(2) an explanation of any change to the original scope of the covered project, including by the addition or narrowing of the initial requirements of the covered project;

(3) the original expected date for completion of the covered project;

(4) the current expected date for completion of the covered project;

(5) the original cost estimate for the covered project, as adjusted to reflect increases in the Consumer Price Index for All Urban Consumers, as published by the Bureau of Labor Statistics;

(6) the current cost estimate for the covered project, as adjusted to reflect increases in the Consumer Price Index for All Urban Consumers, as published by the Bureau of Labor Statistics;

(7) an explanation for a delay in completion or an increase in the original cost estimate for the covered project, including, where applicable, any impact of insufficient or delayed appropriations; and

(8) the amount of and rationale for any award, incentive fee, or other type of bonus, if any, awarded for the covered project.

Subtitle D—Climate Change

SEC. 11401. GRANTS FOR CHARGING AND FUELING INFRASTRUCTURE.

(a) PURPOSE.—The purpose of this section is to establish a grant program 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.

(b) GRANT PROGRAM.—Section 151 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "Not later than 1 year after the date of enactment of the FAST Act, the Secretary shall" and inserting "The Secretary shall periodically"; and

(B) by striking "to improve the mobility" and inserting "to support changes in the transportation sector that help achieve a reduction in greenhouse gas emissions and improve the mobility";

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(2) in subsection (b)(2), by inserting "previously designated by the Federal Highway Administration or" before "designated by";

(3) by striking subsection (d) and inserting the following:

"(d) REDESIGNATION.—

"(1) INITIAL REDESIGNATION.—Not later than 180 days after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Secretary shall update and redesignate the corridors under subsection (a).

"(2) SUBSEQUENT REDESIGNATION.—The Secretary shall establish a recurring process to regularly update and redesignate the corridors under subsection (a).";

(4) in subsection (e)—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2)—

(i) by striking "establishes an aspirational goal of achieving" and inserting "describes efforts, including through funds awarded through the grant program under subsection (f), that will aid efforts to achieve"; and

(ii) by striking "by the end of fiscal year 2020." and inserting "; and"; and

(C) by adding at the end the following:

"(3) summarizes best practices and provides guidance, developed through consultation with the Secretary of Energy, for project development of electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure and natural gas fueling infrastructure at the State, Tribal, and local level to allow for the predictable deployment of that infrastructure."; and

(5) by adding at the end the following:

"(f) GRANT PROGRAM.—

"(1) DEFINITION OF PRIVATE ENTITY.—In this subsection, the term 'private entity' means a corporation, partnership, company, or nonprofit organization.

"(2) ESTABLISHMENT.—Not later than 1 year after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Secretary shall establish a grant program to award grants to eligible entities to carry out the activities described in paragraph (6).

"(3) ELIGIBLE ENTITIES.—An entity eligible to receive a grant under this subsection is—

"(A) a State or political subdivision of a State;

"(B) a metropolitan planning organization;

"(C) a unit of local government;

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

"(E) an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304));

"(F) a territory of the United States;

"(G) an authority, agency, or instrumentality of, or an entity owned by, 1 or more entities described in subparagraphs (A) through (F); or

"(H) a group of entities described in subparagraphs (A) through (G).

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"(4) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall require, including—

"(A) a description of how the eligible entity has considered—

"(i) public accessibility of charging or fueling infrastructure proposed to be funded with a grant under this subsection, including—

"(I) charging or fueling connector types and publicly available information on real-time availability; and

"(II) payment methods to ensure secure, convenient, fair, and equal access;

"(ii) collaborative engagement with stakeholders (including automobile manufacturers, utilities, infrastructure providers, technology providers, electric charging, hydrogen, propane, and natural gas fuel providers, metropolitan planning organizations, States, Indian tribes, and units of local governments, fleet owners, fleet managers, fuel station owners and operators, labor organizations, infrastructure construction and component parts suppliers, and multi-State and regional entities)—

"(I) to foster enhanced, coordinated, public-private or private investment in electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure;

"(II) to expand deployment of electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure;

"(III) to protect personal privacy and ensure cybersecurity; and

"(IV) to ensure that a properly trained workforce is available to construct and install electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure;

"(iii) the location of the station or fueling site, such as consideration of—

"(I) the availability of onsite amenities for vehicle operators, such as restrooms or food facilities;

"(II) access in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

"(III) height and fueling capacity requirements for facilities that charge or refuel large vehicles, such as semi-trailer trucks; and

"(IV) appropriate distribution to avoid redundancy and fill charging or fueling gaps;

"(iv) infrastructure installation that can be responsive to technology advancements, such as accommodating autonomous vehicles, vehicle-to-grid technology, and future charging methods; and

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"(v) the long-term operation and maintenance of the electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure, to avoid stranded assets and protect the investment of public funds in that infrastructure; and

"(B) an assessment of the estimated emissions that will be reduced through the use of electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure, which shall be conducted using the Alternative Fuel Life-Cycle Environmental and Economic Transportation (AFLEET) tool developed by Argonne National Laboratory (or a successor tool).

"(5) CONSIDERATIONS.—In selecting eligible entities to receive a grant under this subsection, the Secretary shall—

"(A) consider the extent to which the application of the eligible entity would—

"(i) improve alternative fueling corridor networks by—

"(I) converting corridor-pending corridors to corridor-ready corridors; or

"(II) in the case of corridor-ready corridors, providing redundancy—

"(aa) to meet excess demand for charging or fueling infrastructure; or

"(bb) to reduce congestion at existing charging or fueling infrastructure in high-traffic locations;

"(ii) meet current or anticipated market demands for charging or fueling infrastructure;

"(iii) enable or accelerate the construction of charging or fueling infrastructure that would be unlikely to be completed without Federal assistance;

"(iv) support a long-term competitive market for electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure that does not significantly impair existing electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure providers;

"(v) provide access to electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure in areas with a current or forecasted need; and

"(vi) deploy electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure for medium- and heavy-duty vehicles (including along the National Highway Freight Network established under section 167(c)) and in proximity to intermodal transfer stations;

"(B) ensure, to the maximum extent practicable, geographic diversity among grant recipients to ensure that electric vehicle charging infrastructure, hydrogen fueling

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infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure is available throughout the United States;

"(C) consider whether the private entity that the eligible entity contracts with under paragraph (6)—

"(i) submits to the Secretary the most recent year of audited financial statements; and

"(ii) has experience in installing and operating electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure; and

"(D) consider whether, to the maximum extent practicable, the eligible entity and the private entity that the eligible entity contracts with under paragraph (6) enter into an agreement—

"(i) to operate and maintain publicly available electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas infrastructure; and

"(ii) that provides a remedy and an opportunity to cure if the requirements described in clause (i) are not met.

"(6) USE OF FUNDS.—

"(A) IN GENERAL.—An eligible entity receiving a grant under this subsection shall only use the funds in accordance with this paragraph to contract with a private entity for acquisition and installation of publicly accessible electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure that is directly related to the charging or fueling of a vehicle.

"(B) LOCATION OF INFRASTRUCTURE.—Any publicly accessible electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure acquired and installed with a grant under this subsection shall be located along an alternative fuel corridor designated under this section, on the condition that any affected Indian tribes are consulted before the designation.

"(C) OPERATING ASSISTANCE.—

"(i) IN GENERAL.—Subject to clauses (ii) and (iii), an eligible entity that receives a grant under this subsection may use a portion of the funds to provide to a private entity operating assistance for the first 5 years of operations after the installation of publicly available electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure while the facility transitions to independent system operations.

"(ii) INCLUSIONS.—Operating assistance under this subparagraph shall be limited to costs allocable to operating and maintaining the electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure and service.

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"(iii) LIMITATION.—Operating assistance under this subparagraph may not exceed the amount of a contract under subparagraph (A) to acquire and install publicly accessible electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure.

"(D) TRAFFIC CONTROL DEVICES.—

"(i) IN GENERAL.—Subject to this paragraph, an eligible entity that receives a grant under this subsection may use a portion of the funds to acquire and install traffic control devices located in the right-of-way to provide directional information to publicly accessible electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure acquired, installed, or operated with the grant.

"(ii) APPLICABILITY.—Clause (i) shall apply only to an eligible entity that—

"(I) receives a grant under this subsection; and

"(II) is using that grant for the acquisition and installation of publicly accessible electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure.

"(iii) LIMITATION ON AMOUNT.—The amount of funds used to acquire and install traffic control devices under clause (i) may not exceed the amount of a contract under subparagraph (A) to acquire and install publicly accessible charging or fueling infrastructure.

"(iv) NO NEW AUTHORITY CREATED.—Nothing in this subparagraph authorizes an eligible entity that receives a grant under this subsection to acquire and install traffic control devices if the entity is not otherwise authorized to do so.

"(E) REVENUE.—

"(i) IN GENERAL.—An eligible entity receiving a grant under this subsection and a private entity referred to in subparagraph (A) may enter into a cost-sharing agreement under which the private entity submits to the eligible entity a portion of the revenue from the electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure.

"(ii) USES OF REVENUE.—An eligible entity that receives revenue from a cost-sharing agreement under clause (i) may only use that revenue for a project that is eligible under this title.

"(7) CERTAIN FUELS.—The use of grants for propane fueling infrastructure under this subsection shall be limited to infrastructure for medium- and heavy-duty vehicles.

"(8) COMMUNITY GRANTS.—

"(A) IN GENERAL.—Notwithstanding paragraphs (4), (5), and (6), the Secretary shall reserve 50 percent of the amounts made available each fiscal year to carry out this section to provide grants to eligible entities in accordance with this paragraph.

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"(B) APPLICATIONS.—To be eligible to receive a grant under this paragraph, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(C) ELIGIBLE ENTITIES.—An entity eligible to receive a grant under this paragraph is—

"(i) an entity described in paragraph (3); and

"(ii) a State or local authority with ownership of publicly accessible transportation facilities.

"(D) ELIGIBLE PROJECTS.—The Secretary may provide a grant under this paragraph for a project that is expected to reduce greenhouse gas emissions and to expand or fill gaps in access to publicly accessible electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure, including—

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

"(ii) the acquisition and installation of electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure that is directly related to the charging or fueling of a vehicle, including any related construction or reconstruction and the acquisition of real property directly related to the project, such as locations described in subparagraph (E), to expand access to electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure.

"(E) PROJECT LOCATIONS.—A project receiving a grant under this paragraph may be located on any public road or in other publicly accessible locations, such as parking facilities at public buildings, public schools, and public parks, or in publicly accessible parking facilities owned or managed by a private entity.

"(F) PRIORITY.—In providing grants under this paragraph, the Secretary shall give priority to projects that expand access to electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure within—

"(i) rural areas;

"(ii) low- and moderate-income neighborhoods; and

"(iii) communities with a low ratio of private parking spaces to households or a high ratio of multi-unit dwellings to single family homes, as determined by the Secretary.

"(G) ADDITIONAL CONSIDERATIONS.—In providing grants under this paragraph, the Secretary shall consider the extent to which the project—

"(i) contributes to geographic diversity among eligible entities, including achieving a balance between urban and rural communities; and

"(ii) meets current or anticipated market demands for charging or fueling infrastructure, including faster

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charging speeds with high-powered capabilities necessary to minimize the time to charge or refuel current and anticipated vehicles.

"(H) PARTNERING WITH PRIVATE ENTITIES.—An eligible entity that receives a grant under this paragraph may use the grant funds to contract with a private entity for the acquisition, construction, installation, maintenance, or operation of electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure that is directly related to the charging or fueling of a vehicle.

"(I) MAXIMUM GRANT AMOUNT.—The amount of a grant under this paragraph shall not be more than $15,000,000.

"(J) TECHNICAL ASSISTANCE.—Of the amounts reserved under subparagraph (A), the Secretary may use not more than 1 percent to provide technical assistance to eligible entities.

"(K) ADDITIONAL ACTIVITIES.—The recipient of a grant under this paragraph may use not more than 5 percent of the grant funds on educational and community engagement activities to develop and implement education programs through partnerships with schools, community organizations, and vehicle dealerships to support the use of zero-emission vehicles and associated infrastructure.

"(9) REQUIREMENTS.—

"(A) PROJECT TREATMENT.—Notwithstanding any other provision of law, any project funded by a grant under this subsection shall be treated as a project on a Federal-aid highway under this chapter.

"(B) SIGNS.—Any traffic control device or on-premises sign acquired, installed, or operated with a grant under this subsection shall comply with—

"(i) the Manual on Uniform Traffic Control Devices, if located in the right-of-way; and

"(ii) other provisions of Federal, State, and local law, as applicable.

"(10) FEDERAL SHARE.—

"(A) IN GENERAL.—The Federal share of the cost of a project carried out with a grant under this subsection shall not exceed 80 percent of the total project cost.

"(B) RESPONSIBILITY OF PRIVATE ENTITY.—As a condition of contracting with an eligible entity under paragraph (6) or (8), a private entity shall agree to pay the share of the cost of a project carried out with a grant under this subsection that is not paid by the Federal Government under subparagraph (A).

"(11) REPORT.—Not later than 3 years after the date of enactment of this subsection, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report on the progress and implementation of this subsection.".

SEC. 11402. REDUCTION OF TRUCK EMISSIONS AT PORT FACILITIES.

(a) ESTABLISHMENT OF PROGRAM.—

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(1) IN GENERAL.—The Secretary shall establish a program to reduce idling at port facilities, under which the Secretary shall—

(A) study how ports and intermodal port transfer facilities would benefit from increased opportunities to reduce emissions at ports, including through the electrification of port operations;

(B) study emerging technologies and strategies that may help reduce port-related emissions from idling trucks; and

(C) coordinate and provide funding to test, evaluate, and deploy projects that reduce port-related emissions from idling trucks, including through the advancement of port electrification and improvements in efficiency, focusing on port operations, including heavy-duty commercial vehicles, and other related projects.

(2) CONSULTATION.—In carrying out the program under this subsection, the Secretary may consult with the Secretary of Energy and the Administrator of the Environmental Protection Agency.

(b) GRANTS.—

(1) IN GENERAL.—In carrying out subsection (a)(1)(C), the Secretary shall award grants to fund projects that reduce emissions at ports, including through the advancement of port electrification.

(2) COST SHARE.—A grant awarded under paragraph (1) shall not exceed 80 percent of the total cost of the project funded by the grant.

(3) COORDINATION.—In carrying out the grant program under this subsection, the Secretary shall—

(A) to the maximum extent practicable, leverage existing resources and programs of the Department and other relevant Federal agencies; and

(B) coordinate with other Federal agencies, as the Secretary determines to be appropriate.

(4) APPLICATION; SELECTION.—

(A) APPLICATION.—The Secretary shall solicit applications for grants under paragraph (1) at such time, in such manner, and containing such information as the Secretary determines to be necessary.

(B) SELECTION.—The Secretary shall make grants under paragraph (1) by not later than April 1 of each fiscal year for which funding is made available.

(5) REQUIREMENT.—Notwithstanding any other provision of law, any project funded by a grant under this subsection shall be treated as a project on a Federal-aid highway under chapter 1 of title 23, United States Code.

(c) REPORT.—Not later than 1 year after the date on which all of the projects funded with a grant under subsection (b) are completed, the Secretary shall submit to Congress a report that includes—

(1) the findings of the studies described in subparagraphs (A) and (B) of subsection (a)(1);

(2) the results of the projects that received a grant under subsection (b);

(3) any recommendations for workforce development and training opportunities with respect to port electrification; and

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(4) any policy recommendations based on the findings and results described in paragraphs (1) and (2).

SEC. 11403. CARBON REDUCTION PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 11203(a)), is amended by adding at the end the following:

"§ 175. Carbon reduction program

"(a) DEFINITIONS.—In this section:

"(1) METROPOLITAN PLANNING ORGANIZATION; URBANIZED AREA.—The terms 'metropolitan planning organization' and 'urbanized area' have the meaning given those terms in section 134(b).

"(2) TRANSPORTATION EMISSIONS.—The term 'transportation emissions' means carbon dioxide emissions from on-road highway sources of those emissions within a State.

"(3) TRANSPORTATION MANAGEMENT AREA.—The term 'transportation management area' means a transportation management area identified or designated by the Secretary under section 134(k)(1).

"(b) ESTABLISHMENT.—The Secretary shall establish a carbon reduction program to reduce transportation emissions.

"(c) ELIGIBLE PROJECTS.—

"(1) IN GENERAL.—Subject to paragraph (2), funds apportioned to a State under section 104(b)(7) may be obligated for projects to support the reduction of transportation emissions, including—

"(A) a project described in section 149(b)(4) to establish or operate a traffic monitoring, management, and control facility or program, including advanced truck stop electrification systems;

"(B) a public transportation project that is eligible for assistance under section 142;

"(C) a project described in section 101(a)(29) (as in effect on the day before the date of enactment of the FAST Act (Public Law 114–94; 129 Stat. 1312)), including the construction, planning, and design of on-road and off-road trail facilities for pedestrians, bicyclists, and other nonmotorized forms of transportation;

"(D) a project described in section 503(c)(4)(E) for advanced transportation and congestion management technologies;

"(E) a project for the deployment of infrastructure-based intelligent transportation systems capital improvements and the installation of vehicle-to-infrastructure communications equipment, including retrofitting dedicated short-range communications (DSRC) technology deployed as part of an existing pilot program to cellular vehicle-to-everything (C–V2X) technology;

"(F) a project to replace street lighting and traffic control devices with energy-efficient alternatives;

"(G) the development of a carbon reduction strategy in accordance with subsection (d);

"(H) a project or strategy that is designed to support congestion pricing, shifting transportation demand to nonpeak hours or other transportation modes, increasing

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vehicle occupancy rates, or otherwise reducing demand for roads, including electronic toll collection, and travel demand management strategies and programs;

"(I) efforts to reduce the environmental and community impacts of freight movement;

"(J) a project to support deployment of alternative fuel vehicles, including—

"(i) the acquisition, installation, or operation of publicly accessible electric vehicle charging infrastructure or hydrogen, natural gas, or propane vehicle fueling infrastructure; and

"(ii) the purchase or lease of zero-emission construction equipment and vehicles, including the acquisition, construction, or leasing of required supporting facilities;

"(K) a project described in section 149(b)(8) for a diesel engine retrofit;

"(L) a project described in section 149(b)(5) that does not result in the construction of new capacity; and

"(M) a project that reduces transportation emissions at port facilities, including through the advancement of port electrification.

"(2) FLEXIBILITY.—In addition to the eligible projects under paragraph (1), a State may use funds apportioned under section 104(b)(7) for a project eligible under section 133(b) if the Secretary certifies that the State has demonstrated a reduction in transportation emissions—

"(A) as estimated on a per capita basis; and

"(B) as estimated on a per unit of economic output basis.

"(d) CARBON REDUCTION STRATEGY.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Surface Transportation Reauthorization Act of 2021, a State, in consultation with any metropolitan planning organization designated within the State, shall develop a carbon reduction strategy in accordance with this subsection.

"(2) REQUIREMENTS.—The carbon reduction strategy of a State developed under paragraph (1) shall—

"(A) support efforts to reduce transportation emissions;

"(B) identify projects and strategies to reduce transportation emissions, which may include projects and strategies for safe, reliable, and cost-effective options—

"(i) to reduce traffic congestion by facilitating the use of alternatives to single-occupant vehicle trips, including public transportation facilities, pedestrian facilities, bicycle facilities, and shared or pooled vehicle trips within the State or an area served by the applicable metropolitan planning organization, if any;

"(ii) to facilitate the use of vehicles or modes of travel that result in lower transportation emissions per person-mile traveled as compared to existing vehicles and modes; and

"(iii) to facilitate approaches to the construction of transportation assets that result in lower transportation emissions as compared to existing approaches;

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"(C) support the reduction of transportation emissions of the State;

"(D) at the discretion of the State, quantify the total carbon emissions from the production, transport, and use of materials used in the construction of transportation facilities within the State; and

"(E) be appropriate to the population density and context of the State, including any metropolitan planning organization designated within the State.

"(3) UPDATES.—The carbon reduction strategy of a State developed under paragraph (1) shall be updated not less frequently than once every 4 years.

"(4) REVIEW.—Not later than 90 days after the date on which a State submits a request for the approval of a carbon reduction strategy developed by the State under paragraph (1), the Secretary shall—

"(A) review the process used to develop the carbon reduction strategy; and

"(B)(i) certify that the carbon reduction strategy meets the requirements of paragraph (2); or

"(ii) deny certification of the carbon reduction strategy and specify the actions necessary for the State to take to correct the deficiencies in the process of the State in developing the carbon reduction strategy.

"(5) TECHNICAL ASSISTANCE.—At the request of a State, the Secretary shall provide technical assistance in the development of the carbon reduction strategy under paragraph (1).

"(e) SUBALLOCATION.—

"(1) IN GENERAL.—For each fiscal year, of the funds apportioned to the State under section 104(b)(7)—

"(A) 65 percent shall be obligated, in proportion to their relative shares of the population of the State—

"(i) in urbanized areas of the State with an urbanized area population of more than 200,000;

"(ii) in urbanized areas of the State with an urbanized population of not less than 50,000 and not more than 200,000;

"(iii) in urban areas of the State with a population of not less than 5,000 and not more than 49,999; and

"(iv) in other areas of the State with a population of less than 5,000; and

"(B) the remainder may be obligated in any area of the State.

"(2) METROPOLITAN AREAS.—Funds attributed to an urbanized area under paragraph (1)(A)(i) may be obligated in the metropolitan area established under section 134 that encompasses the urbanized area.

"(3) DISTRIBUTION AMONG URBANIZED AREAS OF OVER 50,000 POPULATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the amounts that a State is required to obligate under clauses (i) and (ii) of paragraph (1)(A) shall be obligated in urbanized areas described in those clauses based on the relative population of the areas.

"(B) OTHER FACTORS.—The State may obligate the funds described in subparagraph (A) based on other factors if—

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"(i) the State and the relevant metropolitan planning organizations jointly apply to the Secretary for the permission to base the obligation on other factors; and

"(ii) the Secretary grants the request.

"(4) COORDINATION IN URBANIZED AREAS.—Before obligating funds for an eligible project under subsection (c) in an urbanized area that is not a transportation management area, a State shall coordinate with any metropolitan planning organization that represents the urbanized area prior to determining which activities should be carried out under the project.

"(5) CONSULTATION IN RURAL AREAS.—Before obligating funds for an eligible project under subsection (c) in a rural area, a State shall consult with any regional transportation planning organization or metropolitan planning organization that represents the rural area prior to determining which activities should be carried out under the project.

"(6) OBLIGATION AUTHORITY.—

"(A) IN GENERAL.—A State that is required to obligate in an urbanized area with an urbanized area population of 50,000 or more under this subsection funds apportioned to the State under section 104(b)(7) shall make available during the period of fiscal years 2022 through 2026 an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs for use in the area that is equal to the amount obtained by multiplying—

"(i) the aggregate amount of funds that the State is required to obligate in the area under this subsection during the period; and

"(ii) the ratio that—

"(I) the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs during the period; bears to

"(II) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to an obligation limitation) during the period.

"(B) JOINT RESPONSIBILITY.—Each State, each affected metropolitan planning organization, and the Secretary shall jointly ensure compliance with subparagraph (A).

"(f) FEDERAL SHARE.—The Federal share of the cost of a project carried out using funds apportioned to a State under section 104(b)(7) shall be determined in accordance with section 120.

"(g) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, a project assisted under this section shall be treated as a project on a Federal-aid highway under this chapter.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 11203(b)) is amended by inserting after the item relating to section 174 the following:

"175. Carbon reduction program.".

SEC. 11404. CONGESTION RELIEF PROGRAM.

(a) IN GENERAL.—Section 129 of title 23, United States Code, is amended by adding at the end the following:

"(d) CONGESTION RELIEF PROGRAM.—

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"(1) DEFINITIONS.—In this subsection:

"(A) ELIGIBLE ENTITY.—The term 'eligible entity' means any of the following:

"(i) A State, for the purpose of carrying out a project in an urbanized area with a population of more than 1,000,000.

"(ii) A metropolitan planning organization, city, or municipality, for the purpose of carrying out a project in an urbanized area with a population of more than 1,000,000.

"(B) INTEGRATED CONGESTION MANAGEMENT SYSTEM.—The term 'integrated congestion management system' means a system for the integration of management and operations of a regional transportation system that includes, at a minimum, traffic incident management, work zone management, traffic signal timing, managed lanes, real-time traveler information, and active traffic management, in order to maximize the capacity of all facilities and modes across the applicable region.

"(C) PROGRAM.—The term 'program' means the congestion relief program established under paragraph (2).

"(2) ESTABLISHMENT.—The Secretary shall establish a congestion relief program to provide discretionary grants to eligible entities to advance innovative, integrated, and multimodal solutions to congestion relief in the most congested metropolitan areas of the United States.

"(3) PROGRAM GOALS.—The goals of the program are to reduce highway congestion, reduce economic and environmental costs associated with that congestion, including transportation emissions, and optimize existing highway capacity and usage of highway and transit systems through—

"(A) improving intermodal integration with highways, highway operations, and highway performance;

"(B) reducing or shifting highway users to off-peak travel times or to nonhighway travel modes during peak travel times; and

"(C) pricing of, or based on, as applicable—

"(i) parking;

"(ii) use of roadways, including in designated geographic zones; or

"(iii) congestion.

"(4) ELIGIBLE PROJECTS.—Funds from a grant under the program may be used for a project or an integrated collection of projects, including planning, design, implementation, and construction activities, to achieve the program goals under paragraph (3), including—

"(A) deployment and operation of an integrated congestion management system;

"(B) deployment and operation of a system that implements or enforces high occupancy vehicle toll lanes, cordon pricing, parking pricing, or congestion pricing;

"(C) deployment and operation of mobility services, including establishing account-based financial systems, commuter buses, commuter vans, express operations, paratransit, and on-demand microtransit; and

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"(D) incentive programs that encourage travelers to carpool, use nonhighway travel modes during peak period, or travel during nonpeak periods.

"(5) APPLICATION; SELECTION.—

"(A) APPLICATION.—To be eligible to receive a grant under the program, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(B) PRIORITY.—In providing grants under the program, the Secretary shall give priority to projects in urbanized areas that are experiencing a high degree of recurrent congestion.

"(C) FEDERAL SHARE.—The Federal share of the cost of a project carried out with a grant under the program shall not exceed 80 percent of the total project cost.

"(D) MINIMUM AWARD.—A grant provided under the program shall be not less than $10,000,000.

"(6) USE OF TOLLING.—

"(A) IN GENERAL.—Notwithstanding subsection (a)(1) and section 301 and subject to subparagraphs (B) and (C), the Secretary shall allow the use of tolls on the Interstate System as part of a project carried out with a grant under the program.

"(B) REQUIREMENTS.—The Secretary may only approve the use of tolls under subparagraph (A) if—

"(i) the eligible entity has authority under State, and if applicable, local, law to assess the applicable toll;

"(ii) the maximum toll rate for any vehicle class is not greater than the product obtained by multiplying—

"(I) the toll rate for any other vehicle class; and

"(II) 5;

"(iii) the toll rates are not charged or varied on the basis of State residency;

"(iv) the Secretary determines that the use of tolls will enable the eligible entity to achieve the program goals under paragraph (3) without a significant impact to safety or mobility within the urbanized area in which the project is located; and

"(v) the use of toll revenues complies with subsection (a)(3).

"(C) LIMITATION.—The Secretary may not approve the use of tolls on the Interstate System under the program in more than 10 urbanized areas.

"(7) FINANCIAL EFFECTS ON LOW-INCOME DRIVERS.—A project under the program—

"(A) shall include, if appropriate, an analysis of the potential effects of the project on low-income drivers; and

"(B) may include mitigation measures to deal with any potential adverse financial effects on low-income drivers.".

(b) HIGH OCCUPANCY VEHICLE USE OF CERTAIN TOLL FACILITIES.—Section 129(a) of title 23, United States Code, is amended—

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(1) by redesignating paragraph (10) as paragraph (11); and

(2) by inserting after paragraph (9) the following:

"(10) HIGH OCCUPANCY VEHICLE USE OF CERTAIN TOLL FACILITIES.—Notwithstanding section 102(a), in the case of a toll facility that is on the Interstate System and that is constructed or converted after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the public authority with jurisdiction over the toll facility shall allow high occupancy vehicles, transit, and paratransit vehicles to use the facility at a discount rate or without charge, unless the public authority, in consultation with the Secretary, determines that the number of those vehicles using the facility reduces the travel time reliability of the facility.".

SEC. 11405. PROMOTING RESILIENT OPERATIONS FOR TRANSFORMATIVE, EFFICIENT, AND COST-SAVING TRANSPORTATION (PROTECT) PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 11403(a)), is amended by adding at the end the following:

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

"(a) DEFINITIONS.—In this section:

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

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

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

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

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

"(B) is used—

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

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

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

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

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

"(A) that allow a project—

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

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

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"(B) that—

"(i) reduce the magnitude and duration of impacts of current and future weather events and natural disasters to a project; or

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

"(b) ESTABLISHMENT.—

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

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

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

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

"(C) competitive resilience improvement grants to protect—

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

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

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

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

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

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

"(c) ELIGIBLE ACTIVITIES FOR APPORTIONED FUNDING.—

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

"(2) PLANNING SET-ASIDE.—Of the funds apportioned to a State under section 104(b)(8) for each fiscal year, not less

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than 2 percent shall be for activities described in subsection (d)(3).

"(3) REQUIREMENTS.—

"(A) PROJECTS IN CERTAIN AREAS.—If a project under this subsection is carried out, in whole or in part, within a base floodplain, the State shall—

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

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

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

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

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

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

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

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

"(III) aids transportation.

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

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

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

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

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

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

"(D) FEDERAL COST SHARE.—

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

"(ii) NON-FEDERAL SHARE.—A State may use Federal funds other than Federal funds apportioned to the State under section 104(b)(8) to meet the non-

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Federal cost share requirement for a project under this subsection.

"(E) ELIGIBLE PROJECT COSTS.—

"(i) IN GENERAL.—Except as provided in clause (ii), eligible project costs for activities carried out by a State with funds apportioned to the State under section 104(b)(8) may include the costs of—

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

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

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

"(F) LIMITATIONS.—A State—

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

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

"(d) COMPETITIVE AWARDS.—

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

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

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

"(B) A metropolitan planning organization.

"(C) A unit of local government.

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

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

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

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

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

"(A) in the case of a State or metropolitan planning organization, developing a resilience improvement plan under subsection (e)(2);

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

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

"(D) evacuation planning and preparation.

"(4) RESILIENCE GRANTS.—

"(A) RESILIENCE IMPROVEMENT GRANTS.—

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

"(ii) ELIGIBLE ACTIVITIES.—

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

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

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

"(bb) the incorporation of natural infrastructure;

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

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

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

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

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

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

"(ii) stabilizing slide areas or slopes;

"(jj) installing riprap;

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

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

"(mm) installing seismic retrofits on bridges;

"(nn) adding scour protection at bridges;

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

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

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

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

"(I) the Secretary determines—

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

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

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

"(B) COMMUNITY RESILIENCE AND EVACUATION ROUTE GRANTS.—

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

"(ii) ELIGIBLE ACTIVITIES.—An eligible entity may use a community resilience and evacuation route grant under this subparagraph for 1 or more projects that strengthen and protect evacuation routes that are

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essential for providing and supporting evacuations caused by emergency events, including a project that—

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

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

"(III) if the eligible entity notifies the Secretary that existing evacuation routes are not sufficient to adequately facilitate evacuations, including the transportation of emergency responders and recovery resources, expands the capacity of evacuation routes to swiftly and safely accommodate evacuations, including installation of—

"(aa) communications and intelligent transportation system equipment and infrastructure;

"(bb) counterflow measures; or

"(cc) shoulders;

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

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

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

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

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

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

"(iv) CONSULTATION.—In providing grants for community resilience and evacuation routes under this subparagraph, the Secretary may consult with the

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Administrator of the Federal Emergency Management Agency, who may provide technical assistance to the Secretary and to eligible entities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(II) access to a designated evacuation route.

"(5) GRANT REQUIREMENTS.—

"(A) SOLICITATIONS FOR GRANTS.—In providing grants under this subsection, the Secretary shall conduct a transparent and competitive national solicitation process to select eligible projects to receive grants under paragraph (3) and subparagraphs (A), (B), and (C) of paragraph (4).

"(B) APPLICATIONS.—

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

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

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

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

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

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

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

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

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

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

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

"(III) aids transportation.

"(D) SYSTEM RESILIENCE.—A project for which a grant is provided under paragraph (3) or subparagraph (A), (B),

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or (C) of paragraph (4) may include the use of natural infrastructure or the construction or modification of storm surge, flood protection, or aquatic ecosystem restoration elements that the Secretary determines are functionally connected to a transportation improvement, such as—

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

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

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

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

"(E) FEDERAL COST SHARE.—

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

"(ii) RESILIENCE GRANTS.—

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

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

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

"(F) ELIGIBLE PROJECT COSTS.—

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

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

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

"(ii) PLANNING GRANTS.—Eligible project costs for activities funded with a grant under paragraph (3) may include the costs of development phase activities,

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including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, other preconstruction activities, and other activities consistent with carrying out the purposes of that paragraph.

"(G) LIMITATIONS.—

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

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

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

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

"(H) DISTRIBUTION OF GRANTS.—

"(i) IN GENERAL.—Subject to the availability of funds, an eligible entity may request and the Secretary may distribute funds for a grant under this subsection on a multiyear basis, as the Secretary determines to be necessary.

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

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

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

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

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

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

"(7) GRANT ADMINISTRATION.—The Secretary may—

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

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

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

"(1) FEDERAL SHARE REDUCTIONS.—

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

"(B) AMOUNT OF REDUCTIONS.—

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

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

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

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

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

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

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

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

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

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

"(iii) LIMITATIONS.—

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

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

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

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

"(B) shall demonstrate a systemic approach to surface transportation system resilience and be consistent with and complementary of the State and local mitigation plans required under section 322 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5165);

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

"(D) may—

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

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

"(I) emergency response personnel and equipment; and

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

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

"(iv) include an investment plan that—

"(I) includes a list of priority projects; and

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

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

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"(E) shall, as appropriate—

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

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

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

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

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

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

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

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

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

"(f) MONITORING.—

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

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

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

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

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

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

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

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

"(g) REPORTS.—

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

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report on the results of the project and the use of the funds awarded.

"(2) REPORTS TO CONGRESS.—

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

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

"(ii) information relating to project applications received;

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

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

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

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

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

"(h) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, a project assisted under this section shall be treated as a project on a Federal-aid highway under this chapter.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 11403(b)), is amended by inserting after the item relating to section 175 the following:

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

SEC. 11406. HEALTHY STREETS PROGRAM.

(a) DEFINITIONS.—In this section:

(1) COOL PAVEMENT.—The term "cool pavement" means a pavement with reflective surfaces with higher albedo to decrease the surface temperature of that pavement.

(2) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a State;

(B) a metropolitan planning organization;

(C) a unit of local government;

(D) a Tribal government; and

(E) a nonprofit organization working in coordination with an entity described in subparagraphs (A) through (D).

(3) LOW-INCOME COMMUNITY.—The term "low-income community" means a census block group in which not less than 30 percent of the population lives below the poverty line

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(as defined in section 673 of the Community Services Block Grant Act (42 U.S.C. 9902)).

(4) POROUS PAVEMENT.—The term "porous pavement" means a paved surface with a higher than normal percentage of air voids to allow water to pass through the surface and infiltrate into the subsoil.

(5) PROGRAM.—The term "program" means the Healthy Streets program established under subsection (b).

(6) STATE.—The term "State" has the meaning given the term in section 101(a) of title 23, United States Code.

(7) TRIBAL GOVERNMENT.—The term "Tribal government" means the recognized governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list published most recently as of the date of enactment of this Act pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).

(b) ESTABLISHMENT.—The Secretary shall establish a discretionary grant program, to be known as the "Healthy Streets program", to provide grants to eligible entities—

(1) to deploy cool pavements and porous pavements; and

(2) to expand tree cover.

(c) GOALS.—The goals of the program are—

(1) to mitigate urban heat islands;

(2) to improve air quality; and

(3) to reduce—

(A) the extent of impervious surfaces;

(B) stormwater runoff and flood risks; and

(C) heat impacts to infrastructure and road users.

(d) APPLICATION.—

(1) IN GENERAL.—To be eligible to receive a grant under the program, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(2) REQUIREMENTS.—The application submitted by an eligible entity under paragraph (1) shall include a description of—

(A) how the eligible entity would use the grant funds; and

(B) the contribution that the projects intended to be carried out with grant funds would make to improving the safety, health outcomes, natural environment, and quality of life in low-income communities and disadvantaged communities.

(e) USE OF FUNDS.—An eligible entity that receives a grant under the program may use the grant funds for 1 or more of the following activities:

(1) Conducting an assessment of urban heat islands to identify hot spot areas of extreme heat or elevated air pollution.

(2) Conducting a comprehensive tree canopy assessment, which shall assess the current tree locations and canopy, including—

(A) an inventory of the location, species, condition, and health of existing tree canopies and trees on public facilities; and

(B) an identification of—

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(i) the locations where trees need to be replaced;

(ii) empty tree boxes or other locations where trees could be added; and

(iii) flood-prone locations where trees or other natural infrastructure could mitigate flooding.

(3) Conducting an equity assessment by mapping tree canopy gaps, flood-prone locations, and urban heat island hot spots as compared to—

(A) pedestrian walkways and public transportation stop locations;

(B) low-income communities; and

(C) disadvantaged communities.

(4) Planning activities, including developing an investment plan based on the results of the assessments carried out under paragraphs (1), (2), and (3).

(5) Purchasing and deploying cool pavements to mitigate urban heat island hot spots.

(6) Purchasing and deploying porous pavement to mitigate flooding and stormwater runoff in—

(A) pedestrian-only areas; and

(B) areas of low-volume, low-speed vehicular use.

(7) Purchasing of trees, site preparation, planting of trees, ongoing maintenance and monitoring of trees, and repairing of storm damage to trees, with priority given to—

(A) to the extent practicable, the planting of native species; and

(B) projects located in a neighborhood with lower tree cover or higher maximum daytime summer temperatures compared to surrounding neighborhoods.

(8) Assessing underground infrastructure and coordinating with local transportation and utility providers.

(9) Hiring staff to conduct any of the activities described in paragraphs (1) through (8).

(f) PRIORITY.—In awarding grants to eligible entities under the program, the Secretary shall give priority to an eligible entity—

(1) proposing to carry out an activity or project in a low-income community or a disadvantaged community;

(2) that has entered into a community benefits agreement with representatives of the community; or

(3) that is partnering with a qualified youth or conservation corps (as defined in section 203 of the Public Lands Corps Act of 1993 (16 U.S.C. 1722)).

(g) DISTRIBUTION REQUIREMENT.—Of the amounts made available to carry out the program for each fiscal year, not less than 80 percent shall be provided for projects in urbanized areas (as defined in section 101(a) of title 23, United States Code).

(h) FEDERAL SHARE.—

(1) IN GENERAL.—Except as provided under paragraph (2), the Federal share of the cost of a project carried out under the program shall be 80 percent.

(2) WAIVER.—The Secretary may increase the Federal share requirement under paragraph (1) to 100 percent for projects carried out by an eligible entity that demonstrates economic hardship, as determined by the Secretary.

(i) MAXIMUM GRANT AMOUNT.—An individual grant under this section shall not exceed $15,000,000.

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

Subtitle E—Miscellaneous

SEC. 11501. ADDITIONAL DEPOSITS INTO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 105 of title 23, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 105.

SEC. 11502. STOPPING THREATS ON PEDESTRIANS.

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

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

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

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

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

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

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

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

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

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

SEC. 11503. TRANSFER AND SALE OF TOLL CREDITS.

(a) DEFINITIONS.—In this section:

(1) ORIGINATING STATE.—The term "originating State" means a State that—

(A) is eligible to use a credit under section 120(i) of title 23, United States Code; and

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(B) has been selected by the Secretary under subsection (d)(2).

(2) PILOT PROGRAM.—The term "pilot program" means the pilot program established under subsection (b).

(3) RECIPIENT STATE.—The term "recipient State" means a State that receives a credit by transfer or by sale under this section from an originating State.

(4) STATE.—The term "State" has the meaning given the term in section 101(a) of title 23, United States Code.

(b) ESTABLISHMENT OF PILOT PROGRAM.—The Secretary shall establish and implement a toll credit exchange pilot program in accordance with this section.

(c) PURPOSES.—The purposes of the pilot program are—

(1) to identify the extent of the demand to purchase toll credits;

(2) to identify the cash price of toll credits through bilateral transactions between States;

(3) to analyze the impact of the purchase or sale of toll credits on transportation expenditures;

(4) to test the feasibility of expanding the pilot program to allow all States to participate on a permanent basis; and

(5) to identify any other repercussions of the toll credit exchange.

(d) SELECTION OF ORIGINATING STATES.—

(1) APPLICATION.—In order to participate in the pilot program as an originating State, a State shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including, at a minimum, such information as is required for the Secretary to verify—

(A) the amount of unused toll credits for which the State has submitted certification to the Secretary that are available to be sold or transferred under the pilot program, including—

(i) toll revenue generated and the sources of that revenue;

(ii) toll revenue used by public, quasi-public, and private agencies to build, improve, or maintain highways, bridges, or tunnels that serve the public purpose of interstate commerce; and

(iii) an accounting of any Federal funds used by the public, quasi-public, or private agency to build, improve, or maintain the toll facility, to validate that the credit has been reduced by a percentage equal to the percentage of the total cost of building, improving, or maintaining the facility that was derived from Federal funds;

(B) the documentation of maintenance of effort for toll credits earned by the originating State; and

(C) the accuracy of the accounting system of the State to earn and track toll credits.

(2) SELECTION.—Of the States that submit an application under paragraph (1), the Secretary may select not more than 10 States to be designated as an originating State.

(3) LIMITATION ON SALES.—At any time, the Secretary may limit the amount of unused toll credits that may be offered for sale under the pilot program.

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(e) TRANSFER OR SALE OF CREDITS.—

(1) IN GENERAL.—In carrying out the pilot program, the Secretary shall provide that an originating State may transfer or sell to a recipient State a credit not previously used by the originating State under section 120(i) of title 23, United States Code.

(2) WEBSITE SUPPORT.—The Secretary shall make available a publicly accessible website on which originating States shall post the amount of toll credits, verified under subsection (d)(1)(A), that are available for sale or transfer to a recipient State.

(3) BILATERAL TRANSACTIONS.—An originating State and a recipient State may enter into a bilateral transaction to sell or transfer verified toll credits.

(4) NOTIFICATION.—Not later than 30 days after the date on which a credit is transferred or sold, the originating State and the recipient State shall jointly submit to the Secretary a written notification of the transfer or sale, including details on—

(A) the amount of toll credits that have been sold or transferred;

(B) the price paid or other value transferred in exchange for the toll credits;

(C) the intended use by the recipient State of the toll credits, if known;

(D) the intended use by the originating State of the cash or other value transferred;

(E) an update on the toll credit balance of the originating State and the recipient State; and

(F) any other information about the transaction that the Secretary may require.

(5) USE OF CREDITS BY TRANSFEREE OR PURCHASER.—A recipient State may use a credit received under paragraph (1) toward the non-Federal share requirement for any funds made available to carry out title 23 or chapter 53 of title 49, United States Code, in accordance with section 120(i) of title 23, United States Code.

(6) USE OF PROCEEDS FROM SALE OF CREDITS.—An originating State shall use the proceeds from the sale of a credit under paragraph (1) for the construction costs of any project in the originating State that is eligible under title 23, United States Code.

(f) REPORTING REQUIREMENTS.—

(1) INITIAL REPORT.—Not later than 1 year after the date on which the pilot program is established, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the progress of the pilot program.

(2) FINAL REPORT.—Not later than 3 years after the date on which the pilot program is established, the Secretary shall—

(A) 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—

(i) determines whether a toll credit marketplace is viable and cost-effective;

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(ii) describes the buying and selling activities under the pilot program;

(iii) describes the average sale price of toll credits;

(iv) determines whether the pilot program could be expanded to more States or all States or to non-State operators of toll facilities;

(v) provides updated information on the toll credit balance accumulated by each State; and

(vi) describes the list of projects that were assisted by the pilot program; and

(B) make the report under subparagraph (A) publicly available on the website of the Department.

(g) TERMINATION.—

(1) IN GENERAL.—The Secretary may terminate the pilot program or the participation of any State in the pilot program if the Secretary determines that—

(A) the pilot program is not serving a public benefit; or

(B) it is not cost effective to carry out the pilot program.

(2) PROCEDURES.—The termination of the pilot program or the participation of a State in the pilot program shall be carried out consistent with Federal requirements for project closeout, adjustment, and continuing responsibilities.

SEC. 11504. STUDY OF IMPACTS ON ROADS FROM SELF-DRIVING VEHICLES.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall initiate a study on the existing and future impacts of self-driving vehicles to transportation infrastructure, mobility, the environment, and safety, including impacts on—

(1) the Interstate System (as defined in section 101(a) of title 23, United States Code);

(2) urban roads;

(3) rural roads;

(4) corridors with heavy traffic congestion;

(5) transportation systems optimization; and

(6) any other areas or issues relevant to operations of the Federal Highway Administration that the Secretary determines to be appropriate.

(b) CONTENTS OF STUDY.—The study under subsection (a) shall include specific recommendations for both rural and urban communities regarding the impacts of self-driving vehicles on existing transportation system capacity.

(c) CONSIDERATIONS.—In carrying out the study under subsection (a), the Secretary shall—

(1) consider the need for and recommend any policy changes to be undertaken by the Federal Highway Administration on the impacts of self-driving vehicles as identified under paragraph (2); and

(2) for both rural and urban communities, include a discussion of—

(A) the impacts that self-driving vehicles will have on existing transportation infrastructure, such as signage and markings, traffic lights, and highway capacity and design;

(B) the impact on commercial and private traffic flows;

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(C) infrastructure improvement needs that may be necessary for transportation infrastructure to accommodate self-driving vehicles;

(D) the impact of self-driving vehicles on the environment, congestion, and vehicle miles traveled; and

(E) the impact of self-driving vehicles on mobility.

(d) COORDINATION.—In carrying out the study under subsection (a), the Secretary shall consider and incorporate relevant current and ongoing research of the Department.

(e) CONSULTATION.—In carrying out the study under subsection (a), the Secretary shall convene and consult with a panel of national experts in both rural and urban transportation, including—

(1) operators and users of the Interstate System (as defined in section 101(a) of title 23, United States Code), including private sector stakeholders;

(2) States and State departments of transportation;

(3) metropolitan planning organizations;

(4) the motor carrier industry;

(5) representatives of public transportation agencies or organizations;

(6) highway safety and academic groups;

(7) nonprofit entities with experience in transportation policy;

(8) National Laboratories (as defined in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801));

(9) environmental stakeholders; and

(10) self-driving vehicle producers, manufacturers, and technology developers.

(f) REPORT.—Not later than 1 year after the date on which the study under subsection (a) is initiated, the Secretary shall submit a report on the results of the study to—

(1) the Committee on Environment and Public Works of the Senate; and

(2) the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 11505. DISASTER RELIEF MOBILIZATION STUDY.

(a) DEFINITION OF LOCAL COMMUNITY.—In this section, the term "local community" means—

(1) a unit of local government;

(2) a political subdivision of a State or local government;

(3) a metropolitan planning organization (as defined in section 134(b) of title 23, United States Code);

(4) a rural planning organization; or

(5) a Tribal government.

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall 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.

(2) REQUIREMENTS.—The study carried out under paragraph (1) shall include—

(A) a vulnerability assessment of the infrastructure in local communities as of the date of enactment of this Act that supports active transportation, including bicycling, walking, and personal mobility devices, with a particular focus on areas in local communities that—

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(i) have low levels of vehicle ownership; and

(ii) lack sufficient active transportation infrastructure routes to public transportation;

(B) an evaluation of whether disaster preparedness and disaster response plans should include the use of bicycles by first responders, emergency workers, and community organization representatives—

(i) during a mandatory or voluntary evacuation ordered by a Federal, State, Tribal, or local government entity—

(I) to notify residents of the need to evacuate;

(II) to evacuate individuals and goods; and

(III) to reach individuals who are in need of first aid and medical assistance; and

(ii) after a disaster or emergency declared by a Federal, State, Tribal, or local government entity—

(I) to participate in search and rescue activities;

(II) to carry commodities to be used for life-saving or life-sustaining purposes, including—

(aa) water;

(bb) food;

(cc) first aid and other medical supplies; and

(dd) power sources and electric supplies, such as cell phones, radios, lights, and batteries;

(III) to reach individuals who are in need of the commodities described in subclause (II); and

(IV) to assist with other disaster relief tasks, as appropriate; and

(C) a review of training programs for first responders, emergency workers, and community organization representatives relating to—

(i) competent bicycle skills, including the use of cargo bicycles and electric bicycles, as applicable;

(ii) basic bicycle maintenance;

(iii) compliance with relevant traffic safety laws;

(iv) methods to use bicycles to carry out the activities described in clauses (i) and (ii) of subparagraph (2)(B); and

(v) exercises conducted for the purpose of—

(I) exercising the skills described in clause (i); and

(II) maintaining bicycles and related equipment.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, 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—

(1) describes the results of the study carried out under subsection (b); and

(2) provides recommendations, if any, relating to—

(A) the methods by which to incorporate bicycles into disaster preparedness and disaster response plans of local communities; and

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(B) improvements to training programs described in subsection (b)(2)(C).

SEC. 11506. APPALACHIAN REGIONAL COMMISSION.

(a) DEFINITIONS.—Section 14102(a)(1) of title 40, United States Code, is amended—

(1) in subparagraph (G)—

(A) by inserting "Catawba," after "Caldwell,"; and

(B) by inserting "Cleveland," after "Clay,";

(2) in subparagraph (J), by striking "and Spartanburg" and inserting "Spartanburg, and Union"; and

(3) in subparagraph (M), by inserting ", of which the counties of Brooke, Hancock, Marshall, and Ohio shall be considered to be located in the North Central subregion" after "West Virginia".

(b) FUNCTIONS.—Section 14303(a) of title 40, United States Code, is amended—

(1) in paragraph (9), by striking "and" at the end;

(2) in paragraph (10), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(11) support broadband access in the Appalachian region.".

(c) CONGRESSIONAL NOTIFICATION.—

(1) IN GENERAL.—Subchapter II of chapter 143 of subtitle IV of title 40, United States Code, is amended by adding at the end the following:

"§ 14323. Congressional notification

"(a) IN GENERAL.—In the case of a project described in subsection (b), the Appalachian Regional Commission shall provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate notice of the award of a grant or other financial assistance not less than 3 full business days before awarding the grant or other financial assistance.

"(b) PROJECTS DESCRIBED.—A project referred to in subsection (a) is a project that the Appalachian Regional Commission has selected to receive a grant or other financial assistance under this subtitle in an amount not less than $50,000.".

(2) CLERICAL AMENDMENT.—The analysis for subchapter II of chapter 143 of subtitle IV of title 40, United States Code, is amended by adding at the end the following:

"14323. Congressional notification.".

(d) HIGH-SPEED BROADBAND DEPLOYMENT INITIATIVE.—Section 14509 of title 40, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—The Appalachian Regional Commission may provide technical assistance, make grants, enter into contracts, or otherwise provide amounts to individuals or entities in the Appalachian region for projects and activities to increase affordable access to broadband networks throughout the Appalachian region.";

(2) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively;

(3) by inserting after subsection (a) the following:

"(b) ELIGIBLE PROJECTS AND ACTIVITIES.—A project or activity eligible to be carried out under this section is a project or activity—

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"(1) to conduct research, analysis, and training to increase broadband adoption efforts in the Appalachian region; or

"(2) for the construction and deployment of broadband service-related infrastructure in the Appalachian region.";

(4) in subsection (d) (as so redesignated), in the matter preceding paragraph (1), by striking "subsection (b)" and inserting "subsection (c)"; and

(5) by adding at the end the following:

"(f) REQUEST FOR DATA.—Before making a grant for a project or activity described in subsection (b)(2), the Appalachian Regional Commission shall request from the Federal Communications Commission, the National Telecommunications and Information Administration, the Economic Development Administration, and the Department of Agriculture data on—

"(1) the level and extent of broadband service that exists in the area proposed to be served by the broadband service-related infrastructure; and

"(2) the level and extent of broadband service that will be deployed in the area proposed to be served by the broadband service-related infrastructure pursuant to another Federal program.

"(g) REQUIREMENT.—For each fiscal year, not less than 65 percent of the amounts made available to carry out this section shall be used for grants for projects and activities described in subsection (b)(2).".

(e) APPALACHIAN REGIONAL ENERGY HUB INITIATIVE.—

(1) IN GENERAL.—Subchapter I of chapter 145 of subtitle IV of title 40, United States Code, is amended by adding at the end the following:

"§ 14511. Appalachian regional energy hub initiative

"(a) IN GENERAL.—The Appalachian Regional Commission may provide technical assistance to, make grants to, enter into contracts with, or otherwise provide amounts to individuals or entities in the Appalachian region for projects and activities—

"(1) to conduct research and analysis regarding the economic impact of an ethane storage hub in the Appalachian region that supports a more-effective energy market performance due to the scale of the project, such as a project with the capacity to store and distribute more than 100,000 barrels per day of hydrocarbon feedstock with a minimum gross heating value of 1,700 Btu per standard cubic foot;

"(2) with the potential to significantly contribute to the economic resilience of the area in which the project is located; and

"(3) that will help establish a regional energy hub in the Appalachian region for natural gas and natural gas liquids, including hydrogen produced from the steam methane reforming of natural gas feedstocks.

"(b) LIMITATION ON AVAILABLE AMOUNTS.—Of the cost of any project or activity eligible for a grant under this section—

"(1) except as provided in paragraphs (2) and (3), not more than 50 percent may be provided from amounts made available to carry out this section;

"(2) in the case of a project or activity to be carried out in a county for which a distressed county designation is in effect under section 14526, not more than 80 percent may

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be provided from amounts made available to carry out this section; and

"(3) in the case of a project or activity to be carried out in a county for which an at-risk county designation is in effect under section 14526, not more than 70 percent may be provided from amounts made available to carry out this section.

"(c) SOURCES OF ASSISTANCE.—Subject to subsection (b), a grant provided under this section may be provided from amounts made available to carry out this section, in combination with amounts made available—

"(1) under any other Federal program; or

"(2) from any other source.

"(d) FEDERAL SHARE.—Notwithstanding any provision of law limiting the Federal share under any other Federal program, amounts made available to carry out this section may be used to increase that Federal share, as the Appalachian Regional Commission determines to be appropriate.".

(2) CLERICAL AMENDMENT.—The analysis for subchapter I of chapter 145 of title 40, United States Code, is amended by adding at the end the following:

"14511. Appalachian regional energy hub initiative.".

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 14703 of title 40, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (4), by striking "and" at the end;

(B) in paragraph (5), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(6) $200,000,000 for each of fiscal years 2022 through 2026.";

(2) in subsection (c), by striking "$10,000,000 may be used to carry out section 14509 for each of fiscal years 2016 through 2021" and inserting "$20,000,000 may be used to carry out section 14509 for each of fiscal years 2022 through 2026";

(3) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(4) by inserting after subsection (c) the following:

"(d) APPALACHIAN REGIONAL ENERGY HUB INITIATIVE.—Of the amounts made available under subsection (a), $5,000,000 shall be used to carry out section 14511 for each of fiscal years 2022 through 2026.".

(g) TERMINATION.—Section 14704 of title 40, United States Code, is amended by striking "2021" and inserting "2026".

SEC. 11507. DENALI COMMISSION.

(a) DENALI ACCESS SYSTEM PROGRAM.—Notwithstanding subsection (j) of section 309 of the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277), there is authorized to be appropriated $20,000,000 for each of fiscal years 2022 through 2026 to carry out that section.

(b) TRANSFERS OF FUNDS.—Section 311(c) of the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277) is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

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"(3) notwithstanding any other provision of law, shall—

"(A) be treated as if directly appropriated to the Commission and subject to applicable provisions of this Act; and

"(B) 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 Federal agency from which the funds are transferred.".

SEC. 11508. REQUIREMENTS FOR TRANSPORTATION PROJECTS CARRIED OUT THROUGH PUBLIC-PRIVATE PARTNERSHIPS.

(a) DEFINITIONS.—In this section:

(1) PROJECT.—The term "project" means a project (as defined in section 101 of title 23, United States Code) that—

(A) is carried out, in whole or in part, using Federal financial assistance; and

(B) has an estimated total cost of $100,000,000 or more.

(2) PUBLIC-PRIVATE PARTNERSHIP.—The term "public-private partnership" means an agreement between a public agency and a private entity to finance, build, and maintain or operate a project.

(b) REQUIREMENTS FOR PROJECTS CARRIED OUT THROUGH PUBLIC-PRIVATE PARTNERSHIPS.—With respect to a public-private partnership, as a condition of receiving Federal financial assistance for a project, the Secretary shall require the public partner, not later than 3 years after the date of opening of the project to traffic—

(1) to conduct a review of the project, including a review of the compliance of the private partner with the terms of the public-private partnership agreement;

(2)(A) to certify to the Secretary that the private partner of the public-private partnership is meeting the terms of the public-private partnership agreement for the project; or

(B) to notify the Secretary that the private partner of the public-private partnership has not met 1 or more of the terms of the public-private partnership agreement for the project, including a brief description of each violation of the public-private partnership agreement; and

(3) to make publicly available the certification or notification, as applicable, under paragraph (2) in a form that does not disclose any proprietary or confidential business information.

(c) NOTIFICATION.—If the Secretary provides Federal financial assistance to a project carried out through a public-private partnership, not later than 30 days after the date on which the Federal financial assistance is first obligated, 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 notification of the Federal financial assistance made available for the project.

(d) VALUE FOR MONEY ANALYSIS.—

(1) PROJECT APPROVAL AND OVERSIGHT.—Section 106(h)(3) of title 23, United States Code, is amended—

(A) in subparagraph (C), by striking "and" at the end;

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(B) by redesignating subparagraph (D) as subparagraph (E); and

(C) by inserting after subparagraph (C) the following:

"(D) for a project in which the project sponsor intends to carry out the project through a public-private partnership agreement, shall include a detailed value for money analysis or similar comparative analysis for the project; and".

(2) SURFACE TRANSPORTATION BLOCK GRANT PROGRAM.—Paragraph (21) of section 133(b) of title 23, United States Code (as redesignated by section 1109(a)(1)(C)), is amended by inserting ", including conducting value for money analyses or similar comparative analyses," after "oversight".

(3) TIFIA.—Section 602(a) of title 23, United States Code, is amended by adding at the end the following:

"(11) PUBLIC-PRIVATE PARTNERSHIPS.—In the case of a project to be carried out through a public-private partnership, the public partner shall have—

"(A) conducted a value for money analysis or similar comparative analysis; and

"(B) determined the appropriateness of the public-private partnership agreement.".

(e) APPLICABILITY.—This section and the amendments made by this section shall only apply to a public-private partnership agreement entered into on or after the date of enactment of this Act.

SEC. 11509. RECONNECTING COMMUNITIES PILOT PROGRAM.

(a) DEFINITION OF ELIGIBLE FACILITY.—

(1) IN GENERAL.—In this section, the term "eligible facility" means a highway or other transportation 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.

(2) INCLUSIONS.—In this section, the term "eligible facility" may include—

(A) a limited access highway;

(B) a viaduct; and

(C) any other principal arterial facility.

(b) ESTABLISHMENT.—The Secretary shall establish a pilot program through which an eligible entity may apply for funding, in order to restore community connectivity—

(1) to study the feasibility and impacts of removing, retrofitting, or mitigating an existing eligible facility;

(2) to conduct planning activities necessary to design a project to remove, retrofit, or mitigate an existing eligible facility; and

(3) to conduct construction activities necessary to carry out a project to remove, retrofit, or mitigate an existing eligible facility.

(c) PLANNING GRANTS.—

(1) ELIGIBLE ENTITIES.—The Secretary may award a grant (referred to in this section as a "planning grant") to carry out planning activities described in paragraph (2) to—

(A) a State;

(B) a unit of local government;

(C) a Tribal government;

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(D) a metropolitan planning organization; and

(E) a nonprofit organization.

(2) ELIGIBLE ACTIVITIES DESCRIBED.—The planning activities referred to in paragraph (1) are—

(A) planning studies to evaluate the feasibility of removing, retrofitting, or mitigating an existing eligible facility to restore community connectivity, including evaluations of—

(i) current traffic patterns on the eligible facility proposed for removal, retrofit, or mitigation and the surrounding street network;

(ii) the capacity of existing transportation networks to maintain mobility needs;

(iii) an analysis of alternative roadway designs or other uses for the right-of-way of the eligible facility, including an analysis of whether the available right-of-way would suffice to create an alternative roadway design;

(iv) the effect of the removal, retrofit, or mitigation of the eligible facility on the mobility of freight and people;

(v) the effect of the removal, retrofit, or mitigation of the eligible facility on the safety of the traveling public;

(vi) the cost to remove, retrofit, or mitigate the eligible facility—

(I) to restore community connectivity; and

(II) to convert the eligible facility to a different roadway design or use, compared to any expected costs for necessary maintenance or reconstruction of the eligible facility;

(vii) the anticipated economic impact of removing, retrofitting, or mitigating and converting the eligible facility and any economic development opportunities that would be created by removing, retrofitting, or mitigating and converting the eligible facility; and

(viii) the environmental impacts of retaining or reconstructing the eligible facility and the anticipated effect of the proposed alternative use or roadway design;

(B) public engagement activities to provide opportunities for public input into a plan to remove and convert an eligible facility; and

(C) other transportation planning activities required in advance of a project to remove, retrofit, or mitigate an existing eligible facility to restore community connectivity, as determined by the Secretary.

(3) TECHNICAL ASSISTANCE PROGRAM.—

(A) IN GENERAL.—The Secretary may provide technical assistance described in subparagraph (B) to an eligible entity.

(B) TECHNICAL ASSISTANCE DESCRIBED.—The technical assistance referred to in subparagraph (A) is technical assistance in building organizational or community capacity—

(i) to engage in transportation planning; and

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(ii) to identify innovative solutions to infrastructure challenges, including reconnecting communities that—

(I) are bifurcated by eligible facilities; or

(II) lack safe, reliable, and affordable transportation choices.

(C) PRIORITIES.—In selecting recipients of technical assistance under subparagraph (A), the Secretary shall give priority to an application from a community that is economically disadvantaged.

(4) SELECTION.—The Secretary shall—

(A) solicit applications for—

(i) planning grants; and

(ii) technical assistance under paragraph (3); and

(B) evaluate applications for a planning grant on the basis of the demonstration by the applicant that—

(i) the eligible facility is aged and is likely to need replacement or significant reconstruction within the 20-year period beginning on the date of the submission of the application;

(ii) the eligible facility—

(I) creates barriers to mobility, access, or economic development; or

(II) is not justified by current and forecast future travel demand; and

(iii) on the basis of preliminary investigations into the feasibility of removing, retrofitting, or mitigating the eligible facility to restore community connectivity, further investigation is necessary and likely to be productive.

(5) AWARD AMOUNTS.—A planning grant may not exceed $2,000,000 per recipient.

(6) FEDERAL SHARE.—The total Federal share of the cost of a planning activity for which a planning grant is used shall not exceed 80 percent.

(d) CAPITAL CONSTRUCTION GRANTS.—

(1) ELIGIBLE ENTITIES.—The Secretary may award a grant (referred to in this section as a "capital construction grant") to the owner of an eligible facility to carry out an eligible project described in paragraph (3) for which all necessary feasibility studies and other planning activities have been completed.

(2) PARTNERSHIPS.—An owner of an eligible facility may, for the purposes of submitting an application for a capital construction grant, if applicable, partner with—

(A) a State;

(B) a unit of local government;

(C) a Tribal government;

(D) a metropolitan planning organization; or

(E) a nonprofit organization.

(3) ELIGIBLE PROJECTS.—A project eligible to be carried out with a capital construction grant includes—

(A) the removal, retrofit, or mitigation of an eligible facility; and

(B) the replacement of an eligible facility with a new facility that—

(i) restores community connectivity; and

(ii) is—

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(I) sensitive to the context of the surrounding community; and

(II) otherwise eligible for funding under title 23, United States Code.

(4) SELECTION.—The Secretary shall—

(A) solicit applications for capital construction grants; and

(B) evaluate applications on the basis of—

(i) the degree to which the project will improve mobility and access through the removal of barriers;

(ii) the appropriateness of removing, retrofitting, or mitigating the eligible facility, based on current traffic patterns and the ability of the replacement facility and the regional transportation network to absorb transportation demand and provide safe mobility and access;

(iii) the impact of the project on freight movement;

(iv) the results of a cost-benefit analysis of the project;

(v) the opportunities for inclusive economic development;

(vi) the degree to which the eligible facility is out of context with the current or planned land use;

(vii) the results of any feasibility study completed for the project; and

(viii) the plan of the applicant for—

(I) employing residents in the area impacted by the project through targeted hiring programs, in partnership with registered apprenticeship programs, if applicable; and

(II) contracting and subcontracting with disadvantaged business enterprises.

(5) MINIMUM AWARD AMOUNTS.—A capital construction grant shall be in an amount not less than $5,000,000 per recipient.

(6) FEDERAL SHARE.—

(A) IN GENERAL.—Subject to subparagraph (B), a capital construction grant may not exceed 50 percent of the total cost of the project for which the grant is awarded.

(B) MAXIMUM FEDERAL INVOLVEMENT.—Federal assistance other than a capital construction grant may be used to satisfy the non-Federal share of the cost of a project for which the grant is awarded, except that the total Federal assistance provided for a project for which the grant is awarded may not exceed 80 percent of the total cost of the project.

(7) COMMUNITY ADVISORY BOARD.—

(A) IN GENERAL.—To help achieve inclusive economic development benefits with respect to the project for which a grant is awarded, a grant recipient may form a community advisory board, which shall—

(i) facilitate community engagement with respect to the project; and

(ii) track progress with respect to commitments of the grant recipient to inclusive employment, contracting, and economic development under the project.

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(B) MEMBERSHIP.—If a grant recipient forms a community advisory board under subparagraph (A), the community advisory board shall be composed of representatives of—

(i) the community;

(ii) owners of businesses that serve the community;

(iii) labor organizations that represent workers that serve the community; and

(iv) State and local government.

(e) REPORTS.—

(1) USDOT REPORT ON PROGRAM.—Not later than January 1, 2026, 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 evaluates the program under this section, including—

(A) information about the level of applicant interest in planning grants, technical assistance under subsection (c)(3), and capital construction grants, including the extent to which overall demand exceeded available funds; and

(B) for recipients of capital construction grants, the outcomes and impacts of the highway removal project, including—

(i) any changes in the overall level of mobility, congestion, access, and safety in the project area; and

(ii) environmental impacts and economic development opportunities in the project area.

(2) GAO REPORT ON HIGHWAY REMOVALS.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall issue a report that—

(A) identifies examples of projects to remove highways using Federal highway funds;

(B) evaluates the effect of highway removal projects on the surrounding area, including impacts to the local economy, congestion effects, safety outcomes, and impacts on the movement of freight and people;

(C) evaluates the existing Federal-aid program eligibility under title 23, United States Code, for highway removal projects;

(D) analyzes the costs and benefits of and barriers to removing underutilized highways that are nearing the end of their useful life compared to replacing or reconstructing the highway; and

(E) provides recommendations for integrating those assessments into transportation planning and decision-making processes.

(f) TECHNICAL ASSISTANCE.—Of the funds made available to carry out this section for planning grants, the Secretary may use not more than $15,000,000 during the period of fiscal years 2022 through 2026 to provide technical assistance under subsection (c)(3).

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

SEC. 11510. CYBERSECURITY TOOL; CYBER COORDINATOR.

(a) DEFINITIONS.—In this section:

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(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Highway Administration.

(2) CYBER INCIDENT.—The term "cyber incident" has the meaning given the term "incident" in section 3552 of title 44, United States Code.

(3) TRANSPORTATION AUTHORITY.—The term "transportation authority" means—

(A) a public authority (as defined in section 101(a) of title 23, United States Code);

(B) an owner or operator of a highway (as defined in section 101(a) of title 23, United States Code);

(C) a manufacturer that manufactures a product related to transportation; and

(D) a division office of the Federal Highway Administration.

(b) CYBERSECURITY TOOL.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Administrator shall develop a tool to assist transportation authorities in identifying, detecting, protecting against, responding to, and recovering from cyber incidents.

(2) REQUIREMENTS.—In developing the tool under paragraph (1), the Administrator shall—

(A) use the cybersecurity framework established by the National Institute of Standards and Technology and required by Executive Order 13636 of February 12, 2013 (78 Fed. Reg. 11739; relating to improving critical infrastructure cybersecurity);

(B) establish a structured cybersecurity assessment and development program;

(C) coordinate with the Transportation Security Administration and the Cybersecurity and Infrastructure Security Agency;

(D) consult with appropriate transportation authorities, operating agencies, industry stakeholders, and cybersecurity experts; and

(E) provide for a period of public comment and review on the tool.

(c) DESIGNATION OF CYBER COORDINATOR.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Administrator shall designate an office as a "cyber coordinator", which shall be responsible for monitoring, alerting, and advising transportation authorities of cyber incidents.

(2) REQUIREMENTS.—The office designated under paragraph (1) shall, in coordination with the Transportation Security Administration and the Cybersecurity and Infrastructure Security Agency—

(A) provide to transportation authorities a secure method of notifying the Federal Highway Administration of cyber incidents;

(B) share the information collected under subparagraph (A) with the Transportation Security Administration and the Cybersecurity and Infrastructure Security Agency;

(C) monitor cyber incidents that affect transportation authorities;

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(D) alert transportation authorities to cyber incidents that affect those transportation authorities;

(E) investigate unaddressed cyber incidents that affect transportation authorities; and

(F) provide to transportation authorities educational resources, outreach, and awareness on fundamental principles and best practices in cybersecurity for transportation systems.

SEC. 11511. REPORT ON EMERGING ALTERNATIVE FUEL VEHICLES AND INFRASTRUCTURE.

(a) DEFINITIONS.—In this section:

(1) EMERGING ALTERNATIVE FUEL VEHICLE.—The term "emerging alternative fuel vehicle" means a vehicle fueled by hydrogen, natural gas, or propane.

(2) EMERGING ALTERNATIVE FUELING INFRASTRUCTURE.—The term "emerging alternative fueling infrastructure" means infrastructure for fueling an emerging alternative fuel vehicle.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, to help guide future investments for emerging alternative fueling infrastructure, the Secretary shall submit to Congress and make publicly available a report that—

(1) 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;

(2) 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;

(3) identifies specific areas, such as a lack of pipeline infrastructure, that may impede deployment and adoption of emerging alternative fuel vehicles;

(4) includes a map that identifies concentrations of emerging alternative fuel vehicles to meet the needs of current and future emerging alternative fueling infrastructure;

(5) estimates the future need for emerging alternative fueling infrastructure to support the adoption and use of emerging alternative fuel vehicles; and

(6) 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.

(a) DEFINITIONS.—In this section:

(1) HIGHWAY TRUST FUND.—The term "Highway Trust Fund" means the Highway Trust Fund established by section 9503(a) of the Internal Revenue Code of 1986.

(2) NONHIGHWAY RECREATIONAL FUEL TAXES.—The term "nonhighway recreational fuel taxes" means taxes under section 4041 and 4081 of the Internal Revenue Code of 1986 with respect to fuel used in vehicles on recreational trails or back country terrain (including vehicles registered for highway use when used on recreational trails, trail access roads not eligible for funding under title 23, United States Code, or back country terrain).

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(3) RECREATIONAL TRAILS PROGRAM.—The term "recreational trails program" means the recreational trails program under section 206 of title 23, United States Code.

(b) ASSESSMENT; REPORT.—

(1) ASSESSMENT.—Not later than 1 year after the date of enactment of this Act and not less frequently than once every 5 years thereafter, as determined by the Secretary, the Secretary shall carry out an assessment of the best available estimate of the total amount of nonhighway recreational fuel taxes received by the Secretary of the Treasury and transferred to the Highway Trust Fund for the period covered by the assessment.

(2) REPORT.—After carrying out each assessment under paragraph (1), the Secretary shall submit to the Committees on Finance and Environment and Public Works of the Senate and the Committees on Ways and Means and Transportation and Infrastructure of the House of Representatives a report that includes—

(A) to assist Congress in determining an appropriate funding level for the recreational trails program—

(i) a description of the results of the assessment; and

(ii) an evaluation of whether the current recreational trails program funding level reflects the amount of nonhighway recreational fuel taxes collected and transferred to the Highway Trust Fund; and

(B) in the case of the first report submitted under this paragraph, an estimate of the frequency with which the Secretary anticipates carrying out the assessment under paragraph (1), subject to the condition that such an assessment shall be carried out not less frequently than once every 5 years.

(c) CONSULTATION.—In carrying out an assessment under subsection (b)(1), the Secretary may consult with, as the Secretary determines to be appropriate—

(1) the heads of—

(A) State agencies designated by Governors pursuant to section 206(c)(1) of title 23, United States Code, to administer the recreational trails program; and

(B) division offices of the Department;

(2) the Secretary of the Treasury;

(3) the Administrator of the Federal Highway Administration; and

(4) groups representing recreational activities and interests, including hiking, biking and mountain biking, horseback riding, water trails, snowshoeing, cross-country skiing, snowmobiling, off-highway motorcycling, all-terrain vehicles and other offroad motorized vehicle activities, and recreational trail advocates.

SEC. 11513. BUY AMERICA.

Section 313 of title 23, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

"(g) WAIVERS.—

"(1) IN GENERAL.—Not less than 15 days before issuing a waiver under this section, the Secretary shall provide to the public—

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"(A) notice of the proposed waiver;

"(B) an opportunity for comment on the proposed waiver; and

"(C) the reasons for the proposed waiver.

"(2) REPORT.—Not less frequently than annually, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the waivers provided under this section.".

SEC. 11514. HIGH PRIORITY CORRIDORS ON THE NATIONAL HIGHWAY SYSTEM.

(a) HIGH PRIORITY CORRIDORS.—Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2032; 133 Stat. 3018) is amended—

(1) by striking paragraph (84) and inserting the following:

"(84) The Central Texas Corridor, including the route—

"(A) commencing in the vicinity of Texas Highway 338 in Odessa, Texas, running eastward generally following Interstate Route 20, connecting to Texas Highway 158 in the vicinity of Midland, Texas, then following Texas Highway 158 eastward to United States Route 87 and then following United States Route 87 southeastward, passing in the vicinity of San Angelo, Texas, and connecting to United States Route 190 in the vicinity of Brady, Texas;

"(B) commencing at the intersection of Interstate Route 10 and United States Route 190 in Pecos County, Texas, and following United States Route 190 to Brady, Texas;

"(C) following portions of United States Route 190 eastward, passing in the vicinity of Fort Hood, Killeen, Belton, Temple, Bryan, College Station, Huntsville, Livingston, Woodville, and Jasper, to the logical terminus of Texas Highway 63 at the Sabine River Bridge at Burrs Crossing and including a loop generally encircling Bryan/College Station, Texas;

"(D) following United States Route 83 southward from the vicinity of Eden, Texas, to a logical connection to Interstate Route 10 at Junction, Texas;

"(E) following United States Route 69 from Interstate Route 10 in Beaumont, Texas, north to United States Route 190 in the vicinity of Woodville, Texas;

"(F) following United States Route 96 from Interstate Route 10 in Beaumont, Texas, north to United States Route 190 in the vicinity of Jasper, Texas; and

"(G) following United States Route 190, State Highway 305, and United States Route 385 from Interstate Route 10 in Pecos County, Texas, to Interstate 20 at Odessa, Texas."; and

(2) by adding at the end the following:

"(92) United States Route 421 from the interchange with Interstate Route 85 in Greensboro, North Carolina, to the interchange with Interstate Route 95 in Dunn, North Carolina.

"(93) The South Mississippi Corridor from the Louisiana and Mississippi border near Natchez, Mississippi, to Gulfport, Mississippi, shall generally follow—

"(A) United States Route 84 from the Louisiana border at the Mississippi River passing in the vicinity of Natchez,

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Brookhaven, Monticello, Prentiss, and Collins, Mississippi, to the logical terminus with Interstate Route 59 in the vicinity of Laurel, Mississippi, and continuing on Interstate Route 59 south to the vicinity of Hattiesburg, Mississippi; and

"(B) United States Route 49 from the vicinity of Hattiesburg, Mississippi, south to Interstate Route 10 in the vicinity of Gulfport, Mississippi, following Mississippi Route 601 south and terminating near the Mississippi State Port at Gulfport.

"(94) The Kosciusko to Gulf Coast corridor commencing at the logical terminus of Interstate Route 55 near Vaiden, Mississippi, running south and passing east of the vicinity of the Jackson Urbanized Area, connecting to United States Route 49 north of Hattiesburg, Mississippi, and generally following United States Route 49 to a logical connection with Interstate Route 10 in the vicinity of Gulfport, Mississippi.

"(95) The Interstate Route 22 spur from the vicinity of Tupelo, Mississippi, running south generally along United States Route 45 to the vicinity of Shannon, Mississippi.

"(96) The route that generally follows United States Route 412 from its intersection with Interstate Route 35 in Noble County, Oklahoma, passing through Tulsa, Oklahoma, to its intersection with Interstate Route 49 in Springdale, Arkansas.

"(97) The Louie B. Nunn Cumberland Expressway from the interchange with Interstate Route 65 in Barren County, Kentucky, east to the interchange with United States Highway 27 in Somerset, Kentucky.

"(98) The route that generally follows State Route 7 from Grenada, Mississippi, to Holly Springs, Mississippi, passing in the vicinity of Coffeeville, Water Valley, Oxford, and Abbeville, Mississippi, to its logical connection with Interstate Route 22 in the vicinity of Holly Springs, Mississippi.

"(99) The Central Louisiana Corridor commencing at the logical terminus of Louisiana Highway 8 at the Sabine River Bridge at Burrs Crossing and generally following portions of Louisiana Highway 8 to Leesville, Louisiana, and then eastward on Louisiana Highway 28, passing in the vicinity of Alexandria, Pineville, Walters, and Archie, to the logical terminus of United States Route 84 at the Mississippi River Bridge at Vidalia, Louisiana.

"(100) The Central Mississippi Corridor, including the route—

"(A) commencing at the logical terminus of United States Route 84 at the Mississippi River and then generally following portions of United States Route 84 passing in the vicinity of Natchez, Brookhaven, Monticello, Prentiss, and Collins, to Interstate Route 59 in the vicinity of Laurel, Mississippi, and continuing on Interstate Route 59 north to Interstate Route 20 and on Interstate Route 20 to the Mississippi–Alabama State border; and

"(B) commencing in the vicinity of Laurel, Mississippi, running south on Interstate Route 59 to United States Route 98 in the vicinity of Hattiesburg, connecting to United States Route 49 south then following United States Route 49 south to Interstate Route 10 in the vicinity of

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Gulfport and following Mississippi Route 601 southerly terminating near the Mississippi State Port at Gulfport.

"(101) The Middle Alabama Corridor including the route—

"(A) beginning at the Alabama–Mississippi border generally following portions of I–20 until following a new interstate extension paralleling United States Highway 80, specifically—

"(B) crossing Alabama Route 28 near Coatopa, Alabama, traveling eastward crossing United States Highway 43 and Alabama Route 69 near Selma, Alabama, traveling eastwards closely paralleling United States Highway 80 to the south crossing over Alabama Routes 22, 41, and 21, until its intersection with I–65 near Hope Hull, Alabama;

"(C) continuing east along the proposed Montgomery Outer Loop south of Montgomery, Alabama where it would next join with I–85 east of Montgomery, Alabama;

"(D) continuing along I–85 east bound until its intersection with United States Highway 280 near Opelika, Alabama or United States Highway 80 near Tuskegee, Alabama;

"(E) generally following the most expedient route until intersecting with existing United States Highway 80 (JR Allen Parkway) through Phenix City until continuing into Columbus, Georgia.

"(102) The Middle Georgia Corridor including the route—

"(A) beginning at the Alabama–Georgia Border generally following the Fall Line Freeway from Columbus, Georgia to Augusta, Georgia, specifically—

"(B) travelling along United States Route 80 (JR Allen Parkway) through Columbus, Georgia and near Fort Benning, Georgia, east to Talbot County, Georgia where it would follow Georgia Route 96, then commencing on Georgia Route 49C (Fort Valley Bypass) to Georgia Route 49 (Peach Parkway) to its intersection with Interstate Route 75 in Byron, Georgia;

"(C) continuing north along Interstate Route 75 through Warner Robins and Macon, Georgia where it would meet Interstate Route 16, then following Interstate Route 16 east it would next join United States Route 80 and then onto State Route 57;

"(D) commencing with State Route 57 which turns into State Route 24 near Milledgeville, Georgia would then bypass Wrens, Georgia with a newly constructed bypass, and after the bypass it would join United States Route 1 near Fort Gordon into Augusta, Georgia where it will terminate at Interstate Route 520.".

(b) DESIGNATION AS FUTURE INTERSTATES.—Section 1105(e)(5)(A) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 109 Stat. 597; 133 Stat. 3018) is amended in the first sentence—

(1) by inserting "subsection (c)(84)," after "subsection (c)(83),"; and

(2) by striking "and subsection (c)(91)" and inserting "subsection (c)(91), subsection (c)(92), subsection (c)(93)(A), subsection (c)(94), subsection (c)(95), subsection (c)(96), subsection

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(c)(97), subsection (c)(99), subsection (c)(100), subsection (c)(101), and subsection (c)(102)".

(c) NUMBERING OF PARKWAY.—Section 1105(e)(5)(C)(i) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 109 Stat. 598; 133 Stat. 3018) is amended—

(1) by striking the fifteenth sentence and inserting the following: "The route referred to in subsection (c)(84)(A) is designated as Interstate Route I–14 North. The route referred to in subsection (c)(84)(B) is designated as Interstate Route I–14 South. The Bryan/College Station, Texas loop referred to in subsection (c)(84)(C) is designated as Interstate Route I–214."; and

(2) by adding at the end the following: "The route referred to in subsection (c)(97) is designated as Interstate Route I–365. The routes referred to in subsections (c)(84)(C), (c)(99), (c)(100), (c)(101), and (c)(102) are designated as Interstate Route I–14. The routes referred to in subparagraphs (D), (E), (F), and (G) of subsection (c)(84) and subparagraph (B) of subsection (c)(100) shall each be given separate Interstate route numbers.".

(d) GAO REPORT ON DESIGNATION OF SEGMENTS AS PART OF INTERSTATE SYSTEM.—

(1) DEFINITION OF APPLICABLE SEGMENT.—In this subsection, the term "applicable segment" means the route described in paragraph (92) of section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2032).

(2) REPORT.—

(A) IN GENERAL.—Not later than 2 years after the date on which the applicable segment is open for operations as part of the Interstate System, the Comptroller General of the United States shall submit to Congress a report on the impact, if any, during that 2-year period of allowing the continuation of weight limits that applied before the designation of the applicable segment as a route on the Interstate System.

(B) REQUIREMENTS.—The report under subparagraph (A) shall—

(i) be informed by the views and documentation provided by the State highway agency (or equivalent agency) in the State in which the applicable segment is located;

(ii) describe any impacts on safety and infrastructure on the applicable segment;

(iii) describe any view of the State highway agency (or equivalent agency) in the State in which the applicable segment is located on the impact of the applicable segment; and

(iv) focus only on the applicable segment.

SEC. 11515. INTERSTATE WEIGHT LIMITS.

Section 127 of title 23, United States Code, is amended—

(1) in subsection (l)(3)(A)—

(A) in the matter preceding clause (i), in the first sentence, by striking "clauses (i) through (iv) of this subparagraph" and inserting "clauses (i) through (v)"; and

(B) by adding at the end the following:

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"(v) The Louie B. Nunn Cumberland Expressway (to be designated as a spur of Interstate Route 65) from the interchange with Interstate Route 65 in Barren County, Kentucky, east to the interchange with United States Highway 27 in Somerset, Kentucky."; and

(2) by adding at the end the following:

"(v) OPERATION OF VEHICLES ON CERTAIN NORTH CAROLINA HIGHWAYS.—If any segment in the State of North Carolina of United States Route 17, United States Route 29, United States Route 52, United States Route 64, United States Route 70, United States Route 74, United States Route 117, United States Route 220, United States Route 264, or United States Route 421 is designated as a route on the Interstate System, a vehicle that could operate legally on that segment before the date of such designation may continue to operate on that segment, without regard to any requirement under subsection (a).

"(w) OPERATION OF VEHICLES ON CERTAIN OKLAHOMA HIGHWAYS.—If any segment of the highway referred to in paragraph (96) of section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2032) is designated as a route on the Interstate System, a vehicle that could operate legally on that segment before the date of such designation may continue to operate on that segment, without any regard to any requirement under this section.".

SEC. 11516. REPORT ON AIR QUALITY IMPROVEMENTS.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit a report that evaluates the congestion mitigation and air quality improvement program under section 149 of title 23, United States Code (referred to in this section as the "program"), to—

(1) the Committee on Environment and Public Works of the Senate; and

(2) the Committee on Transportation and Infrastructure of the House of Representatives.

(b) CONTENTS.—The evaluation under subsection (a) shall include an evaluation of—

(1) the reductions of ozone, carbon monoxide, and particulate matter that result from projects under the program;

(2) the cost-effectiveness of the reductions described in paragraph (1);

(3) the result of investments of funding under the program in minority and low-income communities that are disproportionately affected by ozone, carbon monoxide, and particulate matter;

(4) the effectiveness, with respect to the attainment or maintenance of national ambient air quality standards under section 109 of the Clean Air Act (42 U.S.C. 7409) for ozone, carbon monoxide, and particulate matter, of performance measures established under section 150(c)(5) of title 23, United States Code, and performance targets established under subsection (d) of that section for traffic congestion and on-road mobile source emissions;

(5) the extent to which there are any types of projects that are not eligible funding under the program that would

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be likely to contribute to the attainment or maintenance of the national ambient air quality standards described in paragraph (4); and

(6) the extent to which projects under the program reduce sulfur dioxide, nitrogen dioxide, and lead.

SEC. 11517. ROADSIDE HIGHWAY SAFETY HARDWARE.

(a) IN GENERAL.—To the maximum extent practicable, the Secretary shall develop a process for third party verification of full-scale crash testing results from crash test labs, including a method for formally verifying the testing outcomes and providing for an independent pass/fail determination. In establishing such a process, the Secretary shall seek to ensure the independence of crash test labs by ensuring that those labs have a clear separation between device development and testing in cases in which lab employees test devices that were developed within the parent organization of the employee.

(b) CONTINUED ISSUANCE OF ELIGIBILITY LETTERS.—Until the implementation of the process described in subsection (a) is complete, the Secretary may, and is encouraged to, ensure that the Administrator of the Federal Highway Administration continues to issue Federal-aid reimbursement eligibility letters for roadside safety hardware as a service to States.

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—If the Secretary seeks to discontinue issuing the letters described in subsection (b), 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 at least 1 year before discontinuing the letters.

(2) INCLUSIONS.—The report described in paragraph (1) shall include a summary of the third-party verification process described in subsection (a) that will replace the Federal Highway Administration issuance of eligibility letters and any other relevant information that the Secretary deems necessary.

SEC. 11518. PERMEABLE PAVEMENTS STUDY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall carry out a study—

(1) to gather existing information on the effects of permeable pavements on flood control in different contexts, including in urban areas, and over the lifetime of the permeable pavement;

(2) to perform research to fill gaps in the existing information gathered under paragraph (1); and

(3) to develop—

(A) models for the performance of permeable pavements in flood control; and

(B) best practices for designing permeable pavement to meet flood control requirements.

(b) DATA SURVEY.—In carrying out the study under subsection (a), the Secretary shall develop—

(1) a summary, based on available literature and models, of localized flood control capabilities of permeable pavement that considers long-term performance and cost information; and

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(2) best practices for the design of localized flood control using permeable pavement that considers long-term performance and cost information.

(c) PUBLICATION.—The Secretary shall make a report describing the results of the study under subsection (a) publicly available.

SEC. 11519. EMERGENCY RELIEF PROJECTS.

(a) DEFINITION OF EMERGENCY RELIEF PROJECT.—In this section, the term "emergency relief project" means a project carried out under the emergency relief program under section 125 of title 23, United States Code.

(b) IMPROVING THE EMERGENCY RELIEF PROGRAM.—Not later than 90 days after the date of enactment of this Act, the Secretary shall—

(1) revise the emergency relief manual of the Federal Highway Administration—

(A) to include and reflect the definition of the term "resilience" (as defined in section 101(a) of title 23, United States Code);

(B) to identify procedures that States may use to incorporate resilience into emergency relief projects; and

(C) to encourage the use of Complete Streets design principles and consideration of access for moderate- and low-income families impacted by a declared disaster;

(2) develop best practices for improving the use of resilience in—

(A) the emergency relief program under section 125 of title 23, United States Code; and

(B) emergency relief efforts;

(3) provide to division offices of the Federal Highway Administration and State departments of transportation information on the best practices developed under paragraph (2); and

(4) develop and implement a process to track—

(A) the consideration of resilience as part of the emergency relief program under section 125 of title 23, United States Code; and

(B) the costs of emergency relief projects.

SEC. 11520. STUDY ON STORMWATER BEST MANAGEMENT PRACTICES.

(a) STUDY.—Not later than 180 days after the date of enactment of this Act, the Secretary and the Administrator of the Environment Protection Agency shall offer to enter into an agreement with the Transportation Research Board of the National Academy of Sciences to conduct a study—

(1) to estimate pollutant loads from stormwater runoff from highways and pedestrian facilities eligible for assistance under title 23, United States Code, to inform the development of appropriate total maximum daily load (as defined in section 130.2 of title 40, Code of Federal Regulations (or successor regulations)) requirements;

(2) to provide recommendations regarding the evaluation and selection by State departments of transportation of potential stormwater management and total maximum daily load compliance strategies within a watershed, including environmental restoration and pollution abatement carried out under

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section 328 of title 23, United States Code (including any revisions to law (including regulations) that the Transportation Research Board determines to be appropriate); and

(3) to examine the potential for the Secretary to assist State departments of transportation in carrying out and communicating stormwater management practices for highways and pedestrian facilities that are eligible for assistance under title 23, United States Code, through information-sharing agreements, database assistance, or an administrative platform to provide the information described in paragraphs (1) and (2) to entities issued permits under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

(b) REQUIREMENTS.—If the Transportation Research Board enters into an agreement under subsection (a), in conducting the study under that subsection, the Transportation Research Board shall—

(1) review and supplement, as appropriate, the methodologies examined and recommended in the report of the National Academies of Sciences, Engineering, and Medicine entitled "Approaches for Determining and Complying with TMDL Requirements Related to Roadway Stormwater Runoff" and dated 2019;

(2) consult with—

(A) the Secretary;

(B) the Administrator of the Environmental Protection Agency;

(C) the Secretary of the Army, acting through the Chief of Engineers; and

(D) State departments of transportation; and

(3) solicit input from—

(A) stakeholders with experience in implementing stormwater management practices for projects; and

(B) educational and technical stormwater management groups.

(c) REPORT.—If the Transportation Research Board enters into an agreement under subsection (a), not later than 18 months after the date of enactment of this Act, the Transportation Research Board shall submit to the Secretary, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a report describing the results of the study.

SEC. 11521. STORMWATER BEST MANAGEMENT PRACTICES REPORTS.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Highway Administration.

(2) BEST MANAGEMENT PRACTICES REPORT.—The term "best management practices report" means—

(A) the 2014 report sponsored by the Administrator entitled "Determining the State of the Practice in Data Collection and Performance Measurement of Stormwater Best Management Practices"; and

(B) the 1997 report sponsored by the Administrator entitled "Stormwater Best Management Practices in an Ultra-Urban Setting: Selection and Monitoring".

(b) REISSUANCE.—Not later than 1 year after the date of enactment of this Act, the Administrator shall update and reissue each

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best management practices report to reflect new information and advancements in stormwater management.

(c) UPDATES.—Not less frequently than once every 5 years after the date on which the Administrator reissues a best management practices report described in subsection (b), the Administrator shall update and reissue the best management practices report until the earlier of the date on which—

(1) the best management practices report is withdrawn; or

(2) the contents of the best management practices report are incorporated (including by reference) into applicable regulations of the Administrator.

SEC. 11522. INVASIVE PLANT ELIMINATION PROGRAM.

(a) DEFINITIONS.—In this section:

(1) INVASIVE PLANT.—The term "invasive plant" means a nonnative plant, tree, grass, or weed species, including, at a minimum, cheatgrass, Ventenata dubia, medusahead, bulbous bluegrass, Japanese brome, rattail fescue, Japanese honeysuckle, phragmites, autumn olive, Bradford pear, wild parsnip, sericea lespedeza, spotted knapweed, garlic mustard, and palmer amaranth.

(2) PROGRAM.—The term "program" means the grant program established under subsection (b).

(3) TRANSPORTATION CORRIDOR.—The term "transportation corridor" means a road, highway, railroad, or other surface transportation route.

(b) ESTABLISHMENT.—The Secretary shall carry out a program to provide grants to 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.

(c) APPLICATION.—To be eligible to receive a grant under the program, a State shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(d) ELIGIBLE ACTIVITIES.—

(1) IN GENERAL.—Subject to this subsection, a State that receives a grant under the program may use the grant funds to carry out activities 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.

(2) PRIORITIZATION OF PROJECTS.—In carrying out the program, the Secretary shall give priority to projects that utilize revegetation with native plants and wildflowers, including those that are pollinator-friendly.

(3) PROHIBITION ON CERTAIN USES OF FUNDS.—Amounts provided to a State under the program may not be used for costs relating to mowing a transportation corridor right-of-way or the adjacent area unless—

(A) mowing is identified as the best means of treatment according to best management practices; or

(B) mowing is used in conjunction with another treatment.

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(4) LIMITATION.—Not more than 10 percent of the amounts provided to a State under the program may be used for the purchase of equipment.

(5) ADMINISTRATIVE AND INDIRECT COSTS.—Not more than 5 percent of the amounts provided to a State under the program may be used for the administrative and other indirect costs (such as full time employee salaries, rent, insurance, subscriptions, utilities, and office supplies) of carrying out eligible activities.

(e) REQUIREMENTS.—

(1) COORDINATION.—In carrying out eligible activities with a grant under the program, a State shall coordinate with—

(A) units of local government, political subdivisions of the State, and Tribal authorities that are carrying out eligible activities in the areas to be treated;

(B) local regulatory authorities, in the case of a treatment along or adjacent to a railroad right-of-way; and

(C) with respect to the most effective roadside control methods, State and Federal land management agencies and any relevant Tribal authorities.

(2) ANNUAL REPORT.—Not later than 1 year after the date on which a State receives a grant under the program, and annually thereafter, that State shall provide to the Secretary an annual report on the treatments carried out using funds from the grant.

(f) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of the cost of an eligible activity carried out using funds from a grant under the program shall be—

(A) in the case of a project that utilizes revegetation with native plants and wildflowers, including those that are pollinator-friendly, 75 percent; and

(B) in the case of any other project not described in subparagraph (A), 50 percent.

(2) CERTAIN FUNDS COUNTED TOWARD NON-FEDERAL SHARE.—A State may include amounts expended by the State or a unit of local government in the State to address current invasive plant populations and prevent future infestation along or in areas adjacent to transportation corridor rights-of-way in calculating the non-Federal share required under the program.

(g) FUNDING.—There is authorized to be appropriated to carry out the program $50,000,000 for each of fiscal years 2022 through 2026.

SEC. 11523. OVER-THE-ROAD BUS TOLLING EQUITY.

Section 129(a) of title 23, United States Code, is amended—

(1) in paragraph (3)(B)(i), by inserting ", together with the results of the audit under paragraph (9)(C)," after "the audits"; and

(2) in paragraph (9)—

(A) by striking "An over-the-road" and inserting the following:

"(A) IN GENERAL.—An over-the-road";

(B) in subparagraph (A) (as so designated), by striking "public transportation buses" and inserting "public transportation vehicles"; and

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(C) by adding at the end the following:

"(B) REPORTS.—

"(i) IN GENERAL.—Not later than 90 days after the date of enactment of this subparagraph, a public authority that operates a toll facility shall report to the Secretary any rates, terms, or conditions for access to the toll facility by public transportation vehicles that differ from the rates, terms, or conditions applicable to over-the-road buses.

"(ii) UPDATES.—A public authority that operates a toll facility shall report to the Secretary any change to the rates, terms, or conditions for access to the toll facility by public transportation vehicles that differ from the rates, terms, or conditions applicable to over-the-road buses by not later than 30 days after the date on which the change takes effect.

"(iii) PUBLICATION.—The Secretary shall publish information reported to the Secretary under clauses (i) and (ii) on a publicly accessible internet website.

"(C) ANNUAL AUDIT.—

"(i) IN GENERAL.—A public authority (as defined in section 101(a)) with jurisdiction over a toll facility shall—

"(I) conduct or have an independent auditor conduct an annual audit of toll facility records to verify compliance with this paragraph; and

"(II) report the results of the audit, together with the results of the audit under paragraph (3)(B), to the Secretary.

"(ii) RECORDS.—After providing reasonable notice, a public authority described in clause (i) shall make all records of the public authority pertaining to the toll facility available for audit by the Secretary.

"(iii) NONCOMPLIANCE.—If the Secretary determines that a public authority described in clause (i) has not complied with this paragraph, the Secretary may require the public authority to discontinue collecting tolls until an agreement with the Secretary is reached to achieve compliance.".

SEC. 11524. BRIDGE TERMINOLOGY.

(a) CONDITION OF NHS BRIDGES.—Section 119(f)(2) of title 23, United States Code, is amended by striking "structurally deficient" each place it appears and inserting "in poor condition".

(b) NATIONAL BRIDGE AND TUNNEL INVENTORIES.—Section 144(b)(5) of title 23, United States Code, is amended by striking "structurally deficient bridge" and inserting "bridge classified as in poor condition".

(c) TRIBAL TRANSPORTATION FACILITY BRIDGES.—Section 202(d) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking "deficient bridges eligible for the tribal transportation program" and inserting "bridges eligible for the tribal transportation program classified as in poor condition, having low load capacity, or needing geometric improvements"; and

(2) in paragraph (3)(C), by striking "structurally deficient or functionally obsolete" and inserting "classified as in poor

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condition, having a low load capacity, or needing geometric improvements".

SEC. 11525. TECHNICAL CORRECTIONS.

(a) Section 101(b)(1) of title 23, United States Code, is amended by inserting "Highways" after "and Defense".

(b) Section 104(f)(3) of title 23, United States Code, is amended—

(1) in the paragraph heading, by striking "FEDERAL HIGHWAY ADMINISTRATION" and inserting "AN OPERATING ADMINISTRATION OF THE DEPARTMENT OF TRANSPORTATION"; and

(2) in subparagraph (A), by striking "the Federal Highway Administration" and inserting "an operating administration of the Department of Transportation".

(c) Section 108(c)(3)(F) of title 23, United States Code, is amended—

(1) by inserting "of 1969 (42 U.S.C. 4321 et seq.)" after "Policy Act"; and

(2) by striking "this Act" and inserting "this title".

(d) Section 112(b)(2) of title 23, United States Code, is amended by striking "(F) (F) Subparagraphs" and inserting the following: "(F) EXCLUSION.—Subparagraphs".

(e) Section 115(c) of title 23, United States Code, is amended by striking "section 135(f)" and inserting "section 135(g)".

(f) Section 130(g) of title 23, United States Code, is amended—

(1) in the third sentence—

(A) by striking "and Transportation," and inserting "and Transportation"; and

(B) by striking "thereafter,," and inserting "thereafter,"; and

(2) in the fifth sentence, by striking "railroad highway" and inserting "railway-highway".

(g) Section 135(g) of title 23, United States Code, is amended—

(1) in paragraph (3), by striking "operators),," and inserting "operators),"; and

(2) in paragraph (6)(B), by striking "5310, 5311, 5316, and 5317" and inserting "5310 and 5311".

(h) Section 139 of title 23, United States Code (as amended by section 11301), is amended—

(1) in subsection (b)(1), by inserting "(42 U.S.C. 4321 et seq.)" after "of 1969";

(2) in subsection (c), by inserting "(42 U.S.C. 4321 et seq.)" after "of 1969" each place it appears; and

(3) in subsection (k)(2), by inserting "(42 U.S.C. 4321 et seq.)" after "of 1969".

(i) Section 140(a) of title 23, United States Code, is amended, in the third sentence, by inserting a comma after "Secretary".

(j) Section 148(i)(2)(D) of title 23, United States Code, is amended by striking "safety safety" and inserting "safety".

(k) Section 166(a)(1) of title 23, United States Code, is amended by striking the paragraph designation and heading and all that follows through "A public authority" and inserting the following: "(1) AUTHORITY OF PUBLIC AUTHORITIES.—A public authority".

(l) Section 201(c)(6)(A)(ii) of title 23, United States Code, is amended by striking "(25 U.S.C. 450 et seq.)" and inserting "(25 U.S.C. 5301 et seq.)".

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(m) Section 202 of title 23, United States Code, is amended—

(1) by striking "(25 U.S.C. 450 et seq.)" each place it appears and inserting "(25 U.S.C. 5301 et seq.)";

(2) in subsection (a)(10)(B), by striking "(25 U.S.C. 450e(b))" and inserting "(25 U.S.C. 5307(b))"; and

(3) in subsection (b)(5), in the matter preceding subparagraph (A), by inserting "the" after "agreement under".

(n) Section 206(d)(2)(G) of title 23, United States Code, is amended by striking "use of recreational trails" and inserting "uses of recreational trails".

(o) Section 207 of title 23, United States Code, is amended—

(1) in subsection (g)—

(A) by striking "(25 U.S.C. 450j–1)" and inserting "(25 U.S.C. 5325)"; and

(B) by striking "(25 U.S.C. 450j–1(f))" and inserting "(25 U.S.C. 5325(f))";

(2) in subsection (l)—

(A) in paragraph (1), by striking "(25 U.S.C. 458aaa–5)" and inserting "(25 U.S.C. 5386)";

(B) in paragraph (2), by striking "(25 U.S.C. 458aaa–6)" and inserting "(25 U.S.C. 5387)";

(C) in paragraph (3), by striking "(25 U.S.C. 458aaa–7)" and inserting "(25 U.S.C. 5388)";

(D) in paragraph (4), by striking "(25 U.S.C. 458aaa–9)" and inserting "(25 U.S.C. 5390)";

(E) in paragraph (5), by striking "(25 U.S.C. 458aaa–10)" and inserting "(25 U.S.C. 5391)";

(F) in paragraph (6), by striking "(25 U.S.C. 458aaa–11)" and inserting "(25 U.S.C. 5392)";

(G) in paragraph (7), by striking "(25 U.S.C. 458aaa–14)" and inserting "(25 U.S.C. 5395)";

(H) in paragraph (8), by striking "(25 U.S.C. 458aaa–15)" and inserting "(25 U.S.C. 5396)"; and

(I) in paragraph (9), by striking "(25 U.S.C. 458aaa–17)" and inserting "(25 U.S.C. 5398)"; and

(3) in subsection (m)(2)—

(A) by striking "505" and inserting "501"; and

(B) by striking "(25 U.S.C. 450b; 458aaa)" and inserting "(25 U.S.C. 5304; 5381)".

(p) Section 217(d) of title 23, United States Code, is amended by striking "104(b)(3)" and inserting "104(b)(4)".

(q) Section 323(d) of title 23, United States Code, is amended in the matter preceding paragraph (1), in the second sentence, by inserting "(42 U.S.C. 4321 et seq.)" after "of 1969".

(r) Section 325 of title 23, United States Code, is repealed.

(s) Section 504(g)(6) of title 23, United States Code, is amended by striking "make grants or to" and inserting "make grants to".

(t) The analysis for chapter 3 of title 23, United States Code, is amended by striking the item relating to section 325.

SEC. 11526. WORKING GROUP ON COVERED RESOURCES.

(a) DEFINITIONS.—In this section:

(1) COVERED RESOURCE.—The term "covered resource" means a common variety material used in transportation infrastructure construction and maintenance, including stone, sand, and gravel.

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(2) STATE.—The term "State" means each of the several States, the District of Columbia, and each territory or possession of the United States.

(3) WORKING GROUP.—The term "Working Group" means the working group established under subsection (b).

(b) ESTABLISHMENT.—Not later than 120 days after the date of enactment of this Act, the Secretary shall establish a working group to conduct a study on access to covered resources for infrastructure projects.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Secretary shall appoint to the Working Group individuals with knowledge and expertise in the production and transportation of covered resources.

(2) REPRESENTATION.—The Working Group shall include not less than 1 representative of each of the following:

(A) State departments of transportation.

(B) State agencies associated with covered resources protection.

(C) State planning and geologic survey and mapping agencies.

(D) Commercial motor vehicle operators, including small business operators and operators who transport covered resources.

(E) Covered resources producers.

(F) Construction contractors.

(G) Labor organizations.

(H) Metropolitan planning organizations and regional planning organizations.

(I) Indian Tribes, including Tribal elected leadership or Tribal transportation officials.

(J) Any other stakeholders that the Secretary determines appropriate.

(3) TERMINATION.—The Working Group shall terminate 180 days after the date on which the Secretary receives the report under subsection (f)(1).

(d) DUTIES.—In carrying out the study required under subsection (b), the Working Group shall analyze—

(1) the use of covered resources in transportation projects funded with Federal dollars;

(2) how the proximity of covered resources to such projects affects the cost and environmental impact of those projects;

(3) whether and how State, Tribal, and local transportation and planning agencies consider covered resources when developing transportation projects; and

(4) any challenges for transportation project sponsors regarding access and proximity to covered resources.

(e) CONSULTATION.—In carrying out the study required under subsection (b), the Working Group shall consult with, as appropriate—

(1) chief executive officers of States;

(2) State, Tribal, and local transportation and planning agencies;

(3) other relevant State, Tribal, and local agencies, including State agencies associated with covered resources protection;

(4) members of the public with industry experience with respect to covered resources;

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(5) other Federal entities that provide funding for transportation projects; and

(6) any other stakeholder the Working Group determines appropriate.

(f) REPORTS.—

(1) WORKING GROUP REPORT.—Not later than 2 years after the date on which the Working Group is established, the Working Group shall submit to the Secretary a report that includes—

(A) the findings of the study required under subsection (b), including a summary of comments received during the consultation process under subsection (e); and

(B) any recommendations to preserve access to and reduce the costs and environmental impacts of covered resources for infrastructure projects.

(2) DEPARTMENTAL REPORT.—Not later than 90 days after the date on which the Secretary receives the report under paragraph (1), the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a summary of the findings under the report and any recommendations, as appropriate.

SEC. 11527. BLOOD TRANSPORT VEHICLES.

Section 166(b) of title 23, United States Code, is amended by adding at the end the following:

"(6) BLOOD TRANSPORT VEHICLES.—The public authority may allow blood transport vehicles that are transporting blood between a collection point and a hospital or storage center to use the HOV facility if the public authority establishes requirements for clearly identifying such vehicles.".

SEC. 11528. POLLINATOR-FRIENDLY PRACTICES ON ROADSIDES AND HIGHWAY RIGHTS-OF-WAY.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code (as amended by section 11309(a)), is amended by adding at the end the following:

"§ 332. Pollinator-friendly practices on roadsides and highway rights-of-way

"(a) IN GENERAL.—The Secretary shall establish a program to provide grants to eligible entities to carry out activities to benefit pollinators on roadsides and highway rights-of-way, including the planting and seeding of native, locally-appropriate grasses and wildflowers, including milkweed.

"(b) ELIGIBLE ENTITIES.—An entity eligible to receive a grant under this section is—

"(1) a State department of transportation;

"(2) an Indian tribe; or

"(3) a Federal land management agency.

"(c) APPLICATION.—To be eligible to receive a grant under this section, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a pollinator-friendly practices plan described in subsection (d).

"(d) POLLINATOR-FRIENDLY PRACTICES PLAN.—

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"(1) IN GENERAL.—An eligible entity shall include in the application under subsection (c) a plan that describes the pollinator-friendly practices that the eligible entity has implemented or plans to implement, including—

"(A) practices relating to mowing strategies that promote early successional vegetation and limit disturbance during periods of highest use by target pollinator species on roadsides and highway rights-of-way, such as—

"(i) reducing the mowing swath outside of the State-designated safety zone;

"(ii) increasing the mowing height;

"(iii) reducing the mowing frequency;

"(iv) refraining from mowing monarch and other pollinator habitat during periods in which monarchs or other pollinators are present;

"(v) use of a flushing bar and cutting at reduced speeds to reduce pollinator deaths due to mowing; or

"(vi) reducing raking along roadsides and highway rights-of-way;

"(B) implementation of an integrated vegetation management plan that includes approaches such as mechanical tree and brush removal, targeted and judicious use of herbicides, and mowing, to address weed issues on roadsides and highway rights-of-way;

"(C) planting or seeding of native, locally-appropriate grasses and wildflowers, including milkweed, on roadsides and highway rights-of-way to enhance pollinator habitat, including larval host plants;

"(D) removing nonnative grasses from planting and seeding mixes, except for use as nurse or cover crops;

"(E) obtaining expert training or assistance on pollinator-friendly practices, including—

"(i) native plant identification;

"(ii) establishment and management of locally-appropriate native plants that benefit pollinators;

"(iii) land management practices that benefit pollinators; and

"(iv) pollinator-focused integrated vegetation management; or

"(F) any other pollinator-friendly practices the Secretary determines to be appropriate.

"(2) COORDINATION.—In developing a plan under paragraph (1), an eligible entity that is a State department of transportation or a Federal land management agency shall coordinate with applicable State agencies, including State agencies with jurisdiction over agriculture and fish and wildlife.

"(3) CONSULTATION.—In developing a plan under paragraph (1)—

"(A) an eligible entity that is a State department of transportation or a Federal land management agency shall consult with affected or interested Indian tribes; and

"(B) any eligible entity may consult with nonprofit organizations, institutions of higher education, metropolitan planning organizations, and any other relevant entities.

"(e) AWARD OF GRANTS.—

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"(1) IN GENERAL.—The Secretary shall provide a grant to each eligible entity that submits an application under subsection (c), including a plan under subsection (d), that the Secretary determines to be satisfactory.

"(2) AMOUNT OF GRANTS.—The amount of a grant under this section—

"(A) shall be based on the number of pollinator-friendly practices the eligible entity has implemented or plans to implement; and

"(B) shall not exceed $150,000.

"(f) USE OF FUNDS.—An eligible entity that receives a grant under this section shall use the funds for the implementation, improvement, or further development of the plan under subsection (d).

"(g) FEDERAL SHARE.—The Federal share of the cost of an activity carried out with a grant under this section shall be 100 percent.

"(h) BEST PRACTICES.—The Secretary shall develop and make available to eligible entities best practices for, and a priority ranking of, pollinator-friendly practices on roadsides and highway rights-of-way.

"(i) TECHNICAL ASSISTANCE.—On request of an eligible entity that receives a grant under this section, the Secretary shall provide technical assistance with the implementation, improvement, or further development of a plan under subsection (d).

"(j) ADMINISTRATIVE COSTS.—For each fiscal year, the Secretary may use not more than 2 percent of the amounts made available to carry out this section for the administrative costs of carrying out this section.

"(k) REPORT.—Not later than 1 year after the date on which the first grant is provided under this section, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the implementation of the program under this section.

"(l) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $2,000,000 for each of fiscal years 2022 through 2026.

"(2) AVAILABILITY.—Amounts made available under this section shall remain available for a period of 3 years after the last day of the fiscal year for which the funds are authorized.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 3 of title 23, United States Code (as amended by section 11309(b)), is amended by adding at the end the following:

"332. Pollinator-friendly practices on roadsides and highway rights-of-way.".

SEC. 11529. ACTIVE TRANSPORTATION INFRASTRUCTURE INVESTMENT PROGRAM.

(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall carry out an active transportation infrastructure investment program to make grants, on a competitive basis, to eligible organizations to construct eligible projects to provide safe and connected active transportation facilities in an active transportation network or active transportation spine.

(b) APPLICATION.—

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(1) IN GENERAL.—To be eligible to receive a grant under this section, an eligible organization shall submit to the Secretary an application in such manner and containing such information as the Secretary may require.

(2) ELIGIBLE PROJECTS PARTIALLY ON FEDERAL LAND.—With respect to an application for an eligible project that is located in part on Federal land, an eligible organization shall enter into a cooperative agreement with the appropriate Federal agency with jurisdiction over such land to submit an application described in paragraph (1).

(c) APPLICATION CONSIDERATIONS.—In making a grant for construction of an active transportation network or active transportation spine under this section, the Secretary shall consider the following:

(1) Whether the eligible organization submitted a plan for an eligible project for the development of walking and bicycling infrastructure that is likely to provide substantial additional opportunities for walking and bicycling, including effective plans—

(A) to create an active transportation network connecting destinations within or between communities, including schools, workplaces, residences, businesses, recreation areas, and other community areas, or create an active transportation spine connecting two or more communities, metropolitan regions, or States; and

(B) to integrate active transportation facilities with transit services, where available, to improve access to public transportation.

(2) Whether the eligible organization demonstrates broad community support through—

(A) the use of public input in the development of transportation plans; and

(B) the commitment of community leaders to the success and timely implementation of an eligible project.

(3) Whether the eligible organization provides evidence of commitment to traffic safety, regulations, financial incentives, or community design policies that facilitate significant increases in walking and bicycling.

(4) The extent to which the eligible organization demonstrates commitment of State, local, or eligible Federal matching funds, and land or in-kind contributions, in addition to the local match required under subsection (f)(1), unless the applicant qualifies for an exception under subsection (f)(2).

(5) The extent to which the eligible organization demonstrates that the grant will address existing disparities in bicyclist and pedestrian fatality rates based on race or income level or provide access to jobs and services for low-income communities and disadvantaged communities.

(6) Whether the eligible organization demonstrates how investment in active transportation will advance safety for pedestrians and cyclists, accessibility to jobs and key destinations, economic competitiveness, environmental protection, and quality of life.

(d) USE OF FUNDS.—

(1) IN GENERAL.—Of the amounts made available to carry out this section and subject to paragraphs (2) and (3), the Secretary shall obligate—

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(A) not less than 30 percent to eligible projects that construct active transportation networks that connect people with public transportation, businesses, workplaces, schools, residences, recreation areas, and other community activity centers; and

(B) not less than 30 percent to eligible projects that construct active transportation spines.

(2) PLANNING AND DESIGN GRANTS.—Each fiscal year, the Secretary shall set aside not less than $3,000,000 of the funds made available to carry out this section to provide planning grants for eligible organizations to develop plans for active transportation networks and active transportation spines.

(3) ADMINISTRATIVE COSTS.—Each fiscal year, the Secretary shall set aside not more than $2,000,000 of the funds made available to carry out this section to cover the costs of administration, research, technical assistance, communications, and training activities under the program.

(4) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection prohibits an eligible organization from receiving research or other funds under title 23 or 49, United States Code.

(e) GRANT TIMING.—

(1) REQUEST FOR APPLICATION.—Not later than 30 days after funds are made available to carry out this section for a fiscal year, the Secretary shall publish in the Federal Register a request for applications for grants under this section for that fiscal year.

(2) SELECTION OF GRANT RECIPIENTS.—Not later than 150 days after funds are made available to carry out this section for a fiscal year, the Secretary shall select grant recipients of grants under this section for that fiscal year.

(f) FEDERAL SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Federal share of the cost of an eligible project carried out using a grant under this section shall not exceed 80 percent of the total project cost.

(2) EXCEPTION FOR DISADVANTAGED COMMUNITIES.—For eligible projects serving communities with a poverty rate of over 40 percent based on the majority of census tracts served by the eligible project, the Secretary may increase the Federal share of the cost of the eligible project up to 100 percent of the total project cost.

(g) ASSISTANCE TO INDIAN TRIBES.—In carrying out this section, the Secretary may enter into grant agreements, self-determination contracts, and self-governance compacts under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.) with Indian tribes that are eligible organizations, and such agreements, contracts, and compacts shall be administered in accordance with that Act.

(h) REPORTS.—

(1) INTERIM REPORT.—Not later than September 30, 2024, the Secretary shall submit to Congress a report containing the information described in paragraph (3).

(2) FINAL REPORT.—Not later than September 30, 2026, the Secretary shall submit to Congress a report containing the information described in paragraph (3).

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(3) REPORT INFORMATION.—A report submitted under this subsection shall contain the following, with respect to the period covered by the applicable report:

(A) A list of grants made under this section.

(B) Best practices of eligible organizations that receive grants under this section in implementing eligible projects.

(C) Impediments experienced by eligible organizations that receive grants under this section in developing and shifting to active transportation.

(i) RULE REQUIRED.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue a final rule that encourages the use of the programmatic categorical exclusion, expedited procurement techniques, and other best practices to facilitate productive and timely expenditures for eligible projects that are small, low-impact, and constructed within an existing built environment.

(j) AUTHORIZATION OF APPROPRIATIONS.—

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

(2) AVAILABILITY.—The amounts made available to carry out this section shall remain available until expended.

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

(l) DEFINITIONS.—In this section:

(1) ACTIVE TRANSPORTATION.—The term "active transportation" means mobility options powered primarily by human energy, including bicycling and walking.

(2) ACTIVE TRANSPORTATION NETWORK.—The term "active transportation network" means facilities built for active transportation, including sidewalks, bikeways, and pedestrian and bicycle trails, that connect between destinations within a community or metropolitan region.

(3) ACTIVE TRANSPORTATION SPINE.—The term "active transportation spine" means facilities built for active transportation, including sidewalks, bikeways, and pedestrian and bicycle trails that connect between communities, metropolitan regions, or States.

(4) COMMUNITY.—The term "community" means a geographic area that is socioeconomically interdependent and may include rural, suburban, and urban jurisdictions.

(5) ELIGIBLE ORGANIZATION.—The term "eligible organization" means—

(A) a local or regional governmental organization, including a metropolitan planning organization or regional planning organization or council;

(B) a multicounty special district;

(C) a State;

(D) a multistate group of governments; or

(E) an Indian tribe.

(6) ELIGIBLE PROJECT.—The term "eligible project" means an active transportation project or group of projects—

(A) within or between a community or group of communities, at least one of which falls within the jurisdiction

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of an eligible organization, which has submitted an application under this section; and

(B) that has—

(i) a total cost of not less than $15,000,000; or

(ii) with respect to planning and design grants, planning and design costs of not less than $100,000.

(7) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

(8) TOTAL PROJECT COST.—The term "total project cost" means the sum total of all costs incurred in the development of an eligible project that are approved by the Secretary as reasonable and necessary, including—

(A) the cost of acquiring real property;

(B) the cost of site preparation, demolition, and development;

(C) expenses related to the issuance of bonds or notes;

(D) fees in connection with the planning, execution, and financing of the eligible project;

(E) the cost of studies, surveys, plans, permits, insurance, interest, financing, tax, and assessments;

(F) the cost of construction, rehabilitation, reconstruction, and equipping the eligible project;

(G) the cost of land improvements;

(H) contractor fees;

(I) the cost of training and education related to the safety of users of any bicycle or pedestrian network or spine constructed as part of an eligible project; and

(J) any other cost that the Secretary determines is necessary and reasonable.

SEC. 11530. HIGHWAY COST ALLOCATION STUDY.

(a) IN GENERAL.—Not later than 4 years after the date of enactment of this Act, the Secretary, in coordination with State departments of transportation, shall carry out a highway cost allocation study to determine the direct costs of highway use by various types of users.

(b) INCLUSIONS.—The study under subsection (a) shall include an examination of—

(1) the Federal costs occasioned in the design, construction, rehabilitation, and maintenance of Federal-aid highways by—

(A) the use of vehicles of different dimensions, weights, number of axles, and other specifications; and

(B) the frequency of those vehicles in the traffic stream;

(2) the safety-, emissions-, congestion-, and noise-related costs of highway use by various types of users, and other costs as determined by the Secretary; and

(3) the proportionate share of the costs described in paragraph (1) that are attributable to each class of highway users.

(c) REQUIREMENTS.—In carrying out the study under subsection (a), the Secretary shall—

(1) ensure that the study examines only direct costs of highway use;

(2) capture the various driving conditions in different geographic areas of the United States;

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(3) to the maximum extent practicable, distinguish between costs directly occasioned by a highway user class and costs occasioned by all highway user classes; and

(4) compare the costs occasioned by various highway user classes with the user fee revenue contributed to the Highway Trust Fund by those highway user classes.

(d) REPORTS.—

(1) INTERIM REPORTS.—Not less frequently than annually during the period during which the Secretary is carrying out the study under subsection (a), the Secretary shall submit to Congress an interim report on the progress of the study.

(2) FINAL REPORT.—On completion of the study under subsection (a), the Secretary shall submit to Congress a final report on the results of the study, including the recommendations under subsection (e).

(e) RECOMMENDATIONS.—On completion of the study under subsection (a), the Secretary, in coordination with the Secretary of the Treasury, shall develop recommendations for a set of revenue options to fully cover the costs occasioned by highway users, including recommendations for—

(1) changes to existing revenue streams; and

(2) new revenue streams based on user fees.

TITLE II—TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION

SEC. 12001. TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT OF 1998 AMENDMENTS.

(a) DEFINITIONS.—Section 601(a) of title 23, United States Code, is amended—

(1) in subparagraph (E) of paragraph (10), by striking "3 years" and inserting "5 years"; and

(2) in paragraph (12)—

(A) by striking subparagraph (E) and inserting the following:

"(E) a project to improve or construct public infrastructure—

"(i) that—

"(I) is located within walking distance of, and accessible to, a fixed guideway transit facility, passenger rail station, intercity bus station, or intermodal facility, including a transportation, public utility, or capital project described in section 5302(3)(G)(v) of title 49, and related infrastructure; or

"(II) is a project for economic development, including commercial and residential development, and related infrastructure and activities—

"(aa) that incorporates private investment;

"(bb) that is physically or functionally related to a passenger rail station or multimodal station that includes rail service;

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"(cc) for which the project sponsor has a high probability of commencing the contracting process for construction by not later than 90 days after the date on which credit assistance under the TIFIA program is provided for the project; and

"(dd) that has a high probability of reducing the need for financial assistance under any other Federal program for the relevant passenger rail station or service by increasing ridership, tenant lease payments, or other activities that generate revenue exceeding costs; and

"(ii) for which, by not later than September 30, 2026, the Secretary has—

"(I) received a letter of interest; and

"(II) determined that the project is eligible for assistance;";

(B) in subparagraph (F), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(G) an eligible airport-related project (as defined in section 40117(a) of title 49) for which, not later than September 30, 2025, the Secretary has—

"(i) received a letter of interest; and

"(ii) determined that the project is eligible for assistance; and

"(H) a project for the acquisition of plant and wildlife habitat pursuant to a conservation plan that—

"(i) has been approved by the Secretary of the Interior pursuant to section 10 of the Endangered Species Act of 1973 (16 U.S.C. 1539); and

"(ii) in the judgment of the Secretary, would mitigate the environmental impacts of transportation infrastructure projects otherwise eligible for assistance under this title.".

(b) ELIGIBILITY.—Section 602(a)(2) of title 23, United States Code, is amended—

(1) in subparagraph (A)(iv)—

(A) by striking "a rating" and inserting "an investment-grade rating"; and

(B) by striking "$75,000,000" and inserting "$150,000,000"; and

(2) in subparagraph (B)—

(A) by striking "the senior debt" and inserting "senior debt"; and

(B) by striking "credit instrument is for an amount less than $75,000,000" and inserting "total amount of other senior debt and the Federal credit instrument is less than $150,000,000".

(c) FEDERAL REQUIREMENTS.—Section 602(c)(1) of title 23, United States Code, is amended in the matter preceding subparagraph (A) by striking "and the requirements of section 5333(a) of title 49 for rail projects," and inserting "the requirements of section 5333(a) of title 49 for rail projects, and the requirements of sections 47112(b) and 50101 of title 49 for airport-related projects,".

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(d) PROCESSING TIMELINES.—Section 602(d) of title 23, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(2) in paragraph (3) (as so redesignated), by striking "paragraph (1)" and inserting "paragraph (2)"; and

(3) by inserting before paragraph (2) (as so redesignated) the following:

"(1) PROCESSING TIMELINES.—Except in the case of an application described in subsection (a)(8) and to the maximum extent practicable, the Secretary shall provide an applicant with a specific estimate of the timeline for the approval or disapproval of the application of the applicant, which, to the maximum extent practicable, the Secretary shall endeavor to complete by not later than 150 days after the date on which the applicant submits a letter of interest to the Secretary.".

(e) MATURITY DATE OF CERTAIN SECURED LOANS.—Section 603(b)(5) of title 23, United States Code, is amended—

(1) in subparagraph (A), in the matter preceding clause (i), by striking "subparagraph (B)" and inserting "subparagraphs (B) and (C)"; and

(2) by adding at the end the following:

"(C) LONG LIVED ASSETS.—In the case of a capital asset with an estimated life of more than 50 years, the final maturity date of the secured loan shall be the lesser of—

"(i) 75 years after the date of substantial completion of the project; or

"(ii) 75 percent of the estimated useful life of the capital asset.".

(f) SECURED LOANS.—Section 603(c)(4)(A) of title 23, United States Code, is amended—

(1) by striking "Any excess" and inserting the following:

"(i) IN GENERAL.—Except as provided in clause (ii), any excess"; and

(2) by adding at the end the following:

"(ii) CERTAIN APPLICANTS.—In the case of a secured loan or other secured Federal credit instrument provided after the date of enactment of the Surface Transportation Reauthorization Act of 2021, if the obligor is a governmental entity, agency, or instrumentality, the obligor shall not be required to prepay the secured loan or other secured Federal credit instrument with any excess revenues described in clause (i) if the obligor enters into an agreement to use those excess revenues only for purposes authorized under this title or title 49.".

(g) TECHNICAL AMENDMENT.—Section 602(e) of title 23, United States Code, is amended by striking "section 601(a)(1)(A)" and inserting "section 601(a)(2)(A)".

(h) STREAMLINED APPLICATION PROCESS.—Section 603(f) of title 23, United States Code, is amended by adding at the end the following:

"(3) ADDITIONAL TERMS FOR EXPEDITED DECISIONS.—

"(A) IN GENERAL.—Not later than 120 days after the date of enactment of this paragraph, the Secretary shall implement an expedited decision timeline for public agency borrowers seeking secured loans that meet—

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"(i) the terms under paragraph (2); and

"(ii) the additional criteria described in subparagraph (B).

"(B) ADDITIONAL CRITERIA.—The additional criteria referred to in subparagraph (A)(ii) are the following:

"(i) The secured loan is made on terms and conditions that substantially conform to the conventional terms and conditions established by the National Surface Transportation Innovative Finance Bureau.

"(ii) The secured loan is rated in the A category or higher.

"(iii) The TIFIA program share of eligible project costs is 33 percent or less.

"(iv) The applicant demonstrates a reasonable expectation that the contracting process for the project can commence by not later than 90 days after the date on which a Federal credit instrument is obligated for the project under the TIFIA program.

"(v) The project has received a categorical exclusion, a finding of no significant impact, or a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(C) WRITTEN NOTICE.—The Secretary shall provide to an applicant seeking a secured loan under the expedited decision process under this paragraph a written notice informing the applicant whether the Secretary has approved or disapproved the application by not later than 180 days after the date on which the Secretary submits to the applicant a letter indicating that the National Surface Transportation Innovative Finance Bureau has commenced the creditworthiness review of the project.".

(i) FUNDING.—

(1) IN GENERAL.—Section 608(a) of title 23, United States Code, is amended—

(A) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively;

(B) by inserting after paragraph (3) the following:

"(4) LIMITATION FOR CERTAIN PROJECTS.—

"(A) TRANSIT-ORIENTED DEVELOPMENT PROJECTS.—For each fiscal year, the Secretary may use to carry out projects described in section 601(a)(12)(E) not more than 15 percent of the amounts made available to carry out the TIFIA program for that fiscal year.

"(B) AIRPORT-RELATED PROJECTS.—The Secretary may use to carry out projects described in section 601(a)(12)(G)—

"(i) for each fiscal year, not more than 15 percent of the amounts made available to carry out the TIFIA program under the Surface Transportation Reauthorization Act of 2021 for that fiscal year; and

"(ii) for the period of fiscal years 2022 through 2026, not more than 15 percent of the unobligated carryover balances (as of October 1, 2021).''; and

(C) by striking paragraph (6) (as so redesignated) and inserting the following:

"(6) ADMINISTRATIVE COSTS.—Of the amounts made available to carry out the TIFIA program, the Secretary may use

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not more than $10,000,000 for each of fiscal years 2022 through 2026 for the administration of the TIFIA program.".

(2) CONFORMING AMENDMENT.—Section 605(f)(1) of title 23, United States Code, is amended by striking "section 608(a)(5)" and inserting "section 608(a)(6)".

(j) STATUS REPORTS.—Section 609 of title 23, United States Code, is amended by adding at the end the following:

"(c) STATUS REPORTS.—

"(1) IN GENERAL.—The Secretary shall publish on the website for the TIFIA program—

"(A) on a monthly basis, a current status report on all submitted letters of interest and applications received for assistance under the TIFIA program; and

"(B) on a quarterly basis, a current status report on all approved applications for assistance under the TIFIA program.

"(2) INCLUSIONS.—Each monthly and quarterly status report under paragraph (1) shall include, at a minimum, with respect to each project included in the status report—

"(A) the name of the party submitting the letter of interest or application;

"(B) the name of the project;

"(C) the date on which the letter of interest or application was received;

"(D) the estimated project eligible costs;

"(E) the type of credit assistance sought; and

"(F) the anticipated fiscal year and quarter for closing of the credit assistance.".

(k) STATE INFRASTRUCTURE BANK PROGRAM.—Section 610 of title 23, United States Code, is amended—

(1) in subsection (d)—

(A) in paragraph (1)(A), by striking "fiscal years 2016 through 2020" and inserting "fiscal years 2022 through 2026";

(B) in paragraph (2), by striking "fiscal years 2016 through 2020" and inserting "fiscal years 2022 through 2026"; and

(C) in paragraph (3), by striking "fiscal years 2016 through 2020" and inserting "fiscal years 2022 through 2026"; and

(2) in subsection (k), by striking "fiscal years 2016 through 2020" and inserting "fiscal years 2022 through 2026".

(l) REPORT.—Not later than September 30, 2025, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the impact of the amendment relating to airport-related projects under subsection (a)(2)(C) and subsection (i)(1)(B), including—

(1) information on the use of TIFIA program (as defined in section 601(a) of title 23, United States Code) funds for eligible airport-related projects (as defined in section 40117(a) of title 49, United States Code); and

(2) recommendations for modifications to the TIFIA program.

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SEC. 12002. FEDERAL REQUIREMENTS FOR TIFIA ELIGIBILITY AND PROJECT SELECTION.

(a) IN GENERAL.—Section 602(c) of title 23, United States Code, is amended by adding at the end the following:

"(3) PAYMENT AND PERFORMANCE SECURITY.—

"(A) IN GENERAL.—The Secretary shall ensure that the design and construction of a project carried out with assistance under the TIFIA program shall have appropriate payment and performance security, regardless of whether the obligor is a State, local government, agency or instrumentality of a State or local government, public authority, or private party.

"(B) WRITTEN DETERMINATION.—If payment and performance security is required to be furnished by applicable State or local statute or regulation, the Secretary may accept such payment and performance security requirements applicable to the obligor if the Federal interest with respect to Federal funds and other project risk related to design and construction is adequately protected.

"(C) NO DETERMINATION OR APPLICABLE REQUIREMENTS.—If there are no payment and performance security requirements applicable to the obligor, the security under section 3131(b) of title 40 or an equivalent State or local requirement, as determined by the Secretary, shall be required.".

(b) APPLICABILITY.—The amendments made by this section shall apply with respect to any agreement for credit assistance entered into on or after the date of enactment of this Act.

TITLE III—RESEARCH, TECHNOLOGY, AND EDUCATION

SEC. 13001. STRATEGIC INNOVATION FOR REVENUE COLLECTION.

(a) IN GENERAL.—The Secretary shall establish a program to test the feasibility of a road usage fee and other user-based alternative revenue mechanisms (referred to in this section as "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.

(b) GRANTS.—

(1) IN GENERAL.—The Secretary shall provide grants to eligible entities to carry out pilot projects under this section.

(2) APPLICATIONS.—To be eligible for a grant under this section, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(3) OBJECTIVES.—The Secretary shall ensure that, in the aggregate, the pilot projects carried out using funds provided under this section meet the following objectives:

(A) To test the design, acceptance, equity, and implementation of user-based alternative revenue mechanisms, including among—

(i) differing income groups; and

(ii) rural and urban drivers, as applicable.

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(B) To provide recommendations regarding adoption and implementation of user-based alternative revenue mechanisms.

(C) To quantify and minimize the administrative costs of any potential user-based alternative revenue mechanisms.

(D) To test a variety of solutions, including the use of independent and private third-party vendors, for the collection of data and fees from user-based alternative revenue mechanisms, including the reliability and security of those solutions and vendors.

(E) To test solutions to ensure the privacy and security of data collected for the purpose of implementing a user-based alternative revenue mechanism.

(F) To conduct public education and outreach to increase public awareness regarding the need for user-based alternative revenue mechanisms for surface transportation programs.

(G) To evaluate the ease of compliance and enforcement of a variety of implementation approaches for different users of the surface transportation system.

(H) To ensure, to the greatest extent practicable, the use of innovation.

(I) To consider, to the greatest extent practicable, the potential for revenue collection along a network of alternative fueling stations.

(J) To evaluate the impacts of the imposition of a user-based alternative revenue mechanism on—

(i) transportation revenues;

(ii) personal mobility, driving patterns, congestion, and transportation costs; and

(iii) freight movement and costs.

(K) To evaluate options for the integration of a user-based alternative revenue mechanism with—

(i) nationwide transportation revenue collections and regulations;

(ii) toll revenue collection platforms;

(iii) transportation network company fees; and

(iv) any other relevant transportation revenue mechanisms.

(4) ELIGIBLE ENTITY.—An entity eligible to apply for a grant under this section is—

(A) a State or a group of States;

(B) a local government or a group of local governments; or

(C) a metropolitan planning organization (as defined in section 134(b) of title 23, United States Code) or a group of metropolitan planning organizations.

(5) USE OF FUNDS.—An eligible entity that receives a grant under this section shall use the grant to carry out a pilot project to address 1 or more of the objectives described in paragraph (3).

(6) CONSIDERATION.—The Secretary shall consider geographic diversity in awarding grants under this subsection.

(7) FEDERAL SHARE.—The Federal share of the cost of a pilot project carried out under this section may not exceed—

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(A) 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

(B) 70 percent of the total cost of a project carried out by an eligible entity that has received at least 1 grant under this section.

(c) LIMITATION ON REVENUE COLLECTED.—Any revenue collected through a user-based alternative revenue mechanism established using funds provided under this section shall not be considered a toll under section 301 of title 23, United States Code.

(d) RECOMMENDATIONS AND REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary, in coordination with the Secretary of the Treasury and the Federal System Funding Alternative Advisory Board established under section 13002(g)(1), 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—

(1) summarizes the results of the pilot projects under this section and the national pilot program under section 13002; and

(2) provides recommendations, if applicable, to enable potential implementation of a nationwide user-based alternative revenue mechanism.

(e) FUNDING.—

(1) IN GENERAL.—Of the funds made available to carry out section 503(b) of title 23, United States Code, for each of fiscal years 2022 through 2026 $15,000,000 shall be used for pilot projects under this section.

(2) FLEXIBILITY.—If, by August 1 of each fiscal year, the Secretary determines that there are not enough grant applications to meet the requirements of this section for that fiscal year, the Secretary shall transfer to the national pilot program under section 13002 or to the highway research and development program under section 503(b) of title 23, United States Code—

(A) any funds reserved for a fiscal year under paragraph (1) that the Secretary has not yet awarded under this section; and

(B) an amount of obligation limitation equal to the amount of funds that the Secretary transfers under subparagraph (A).

(f) REPEAL.—

(1) IN GENERAL.—Section 6020 of the FAST Act (23 U.S.C. 503 note; Public Law 114–94) is repealed.

(2) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the FAST Act (Public Law 114–94; 129 Stat. 1312) is amended by striking the item relating to section 6020.

SEC. 13002. NATIONAL MOTOR VEHICLE PER-MILE USER FEE PILOT.

(a) DEFINITIONS.—In this section:

(1) ADVISORY BOARD.—The term "advisory board" means the Federal System Funding Alternative Advisory Board established under subsection (g)(1).

(2) COMMERCIAL VEHICLE.—The term "commercial vehicle" has the meaning given the term commercial motor vehicle in section 31101 of title 49, United States Code.

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(3) HIGHWAY TRUST FUND.—The term "Highway Trust Fund" means the Highway Trust Fund established under section 9503 of the Internal Revenue Code of 1986.

(4) LIGHT TRUCK.—The term "light truck" has the meaning given the term in section 523.2 of title 49, Code of Federal Regulations (or successor regulations).

(5) MEDIUM- AND HEAVY-DUTY TRUCK.—The term "medium- and heavy-duty truck" has the meaning given the term "commercial medium- and heavy-duty on-highway vehicle" in section 32901(a) of title 49, United States Code.

(6) PASSENGER MOTOR VEHICLE.—The term "passenger motor vehicle" has the meaning given the term in section 32101 of title 49, United States Code.

(7) PER-MILE USER FEE.—The term "per-mile user fee" means a revenue mechanism that—

(A) is applied to road users operating motor vehicles on the surface transportation system; and

(B) is based on the number of vehicle miles traveled by an individual road user.

(8) PILOT PROGRAM.—The term "pilot program" means the pilot program established under subsection (b)(1).

(9) VOLUNTEER PARTICIPANT.—The term "volunteer participant" means—

(A) an owner or lessee of a private, personal motor vehicle who volunteers to participate in the pilot program;

(B) a commercial vehicle operator who volunteers to participate in the pilot program; or

(C) an owner of a motor vehicle fleet who volunteers to participate in the pilot program.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary, in coordination with the Secretary of the Treasury, and consistent with the recommendations of the advisory board, shall establish a pilot program to demonstrate a national motor vehicle per-mile user fee—

(A) to restore and maintain the long-term solvency of the Highway Trust Fund; and

(B) to improve and maintain the surface transportation system.

(2) OBJECTIVES.—The objectives of the pilot program are—

(A) to test the design, acceptance, implementation, and financial sustainability of a national motor vehicle per-mile user fee;

(B) to address the need for additional revenue for surface transportation infrastructure and a national motor vehicle per-mile user fee; and

(C) to provide recommendations relating to the adoption and implementation of a national motor vehicle per-mile user fee.

(c) PARAMETERS.—In carrying out the pilot program, the Secretary, in coordination with the Secretary of the Treasury, shall—

(1) provide different methods that volunteer participants can choose from to track motor vehicle miles traveled;

(2) solicit volunteer participants from all 50 States, the District of Columbia, and the Commonwealth of Puerto Rico;

(3) ensure an equitable geographic distribution by population among volunteer participants;

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(4) include commercial vehicles and passenger motor vehicles; and

(5) use components of and, where appropriate, coordinate with—

(A) the States that received a grant under section 6020 of the FAST Act (23 U.S.C. 503 note; Public Law 114–94) (as in effect on the day before the date of enactment of this Act); and

(B) eligible entities that received a grant under section 13001.

(d) METHODS.—

(1) TOOLS.—In selecting the methods described in subsection (c)(1), the Secretary shall coordinate with entities that voluntarily provide to the Secretary for use under the pilot program any of the following vehicle-miles-traveled collection tools:

(A) Third-party on-board diagnostic (OBD-II) devices.

(B) Smart phone applications.

(C) Telemetric data collected by automakers.

(D) Motor vehicle data obtained by car insurance companies.

(E) Data from the States that received a grant under section 6020 of the FAST Act (23 U.S.C. 503 note; Public Law 114–94) (as in effect on the day before the date of enactment of this Act).

(F) Motor vehicle data obtained from fueling stations.

(G) Any other method that the Secretary considers appropriate.

(2) COORDINATION.—

(A) SELECTION.—The Secretary shall determine which collection tools under paragraph (1) are selected for the pilot program.

(B) VOLUNTEER PARTICIPANTS.—In a manner that the Secretary considers appropriate, the Secretary shall enable each volunteer participant to choose 1 of the selected collection tools under paragraph (1).

(e) MOTOR VEHICLE PER-MILE USER FEES.—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, which amount may vary between vehicle types and weight classes to reflect estimated impacts on infrastructure, safety, congestion, the environment, or other related social impacts.

(f) VOLUNTEER PARTICIPANTS.—The Secretary, in coordination with the Secretary of the Treasury, shall—

(1)(A) ensure, to the extent practicable, that the greatest number of volunteer participants participate in the pilot program; and

(B) ensure that such volunteer participants represent geographically diverse regions of the United States, including from urban and rural areas; and

(2) issue policies relating to the protection of volunteer participants, including policies that—

(A) protect the privacy of volunteer participants; and

(B) secure the data provided by volunteer participants.

(g) FEDERAL SYSTEM FUNDING ALTERNATIVE ADVISORY BOARD.—

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(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish an advisory board, to be known as the "Federal System Funding Alternative Advisory Board", to assist with—

(A) providing the Secretary with recommendations related to the structure, scope, and methodology for developing and implementing the pilot program;

(B) carrying out the public awareness campaign under subsection (h); and

(C) developing the report under subsection (n).

(2) MEMBERSHIP.—The advisory board shall include, at a minimum, the following representatives and entities, to be appointed by the Secretary:

(A) State departments of transportation.

(B) Any public or nonprofit entity that led a surface transportation system funding alternatives pilot project under section 6020 of the FAST Act (23 U.S.C. 503 note; Public Law 114–94) (as in effect on the day before the date of enactment of this Act).

(C) Representatives of the trucking industry, including owner-operator independent drivers.

(D) Data security experts with expertise in personal privacy.

(E) Academic experts on surface transportation systems.

(F) Consumer advocates, including privacy experts.

(G) Advocacy groups focused on equity.

(H) Owners of motor vehicle fleets.

(I) Owners and operators of toll facilities.

(J) Tribal groups or representatives.

(K) Any other representatives or entities, as determined appropriate by the Secretary.

(3) RECOMMENDATIONS.—Not later than 1 year after the date on which the advisory board is established under paragraph (1), the advisory board shall provide the Secretary with the recommendations described in subparagraph (A) of that paragraph, which the Secretary shall use in implementing the pilot program.

(h) PUBLIC AWARENESS CAMPAIGN.—

(1) IN GENERAL.—The Secretary, with guidance from the advisory board, may carry out a public awareness campaign to increase public awareness regarding a national motor vehicle per-mile user fee, including distributing information—

(A) related to the pilot program;

(B) from the State surface transportation system funding alternatives pilot program under section 6020 of the FAST Act (23 U.S.C. 503 note; Public Law 114–94) (as in effect on the day before the date of enactment of this Act); and

(C) related to consumer privacy.

(2) CONSIDERATIONS.—In carrying out the public awareness campaign under this subsection, the Secretary shall consider issues unique to each State.

(i) REVENUE COLLECTION.—The Secretary of the Treasury, in coordination with the Secretary, shall establish a mechanism to collect motor vehicle per-mile user fees established under subsection (e) from volunteer participants, which—

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(1) may be adjusted as needed to address technical challenges; and

(2) may allow independent and private third-party vendors to collect the motor vehicle per-mile user fees and forward such fees to the Treasury.

(j) AGREEMENT.—The Secretary may enter into an agreement with a volunteer participant containing such terms and conditions as the Secretary considers necessary for participation in the pilot program.

(k) LIMITATION.—Any revenue collected through the mechanism established under subsection (i) shall not be considered a toll under section 301 of title 23, United States Code.

(l) HIGHWAY TRUST FUND.—The Secretary of the Treasury shall ensure that any revenue collected under subsection (i) is deposited into the Highway Trust Fund.

(m) PAYMENT.—Not more than 60 days after the end of each calendar quarter in which a volunteer participant has participated in the pilot program, the Secretary of the Treasury, in consultation with the Secretary of Transportation, shall estimate an amount of payment for each volunteer based on the vehicle miles submitted by the volunteer for the calendar quarter and issue such payment to such volunteer participant.

(n) REPORT TO CONGRESS.—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—

(1) whether the objectives described in subsection (b)(2) were achieved;

(2) how volunteer participant protections in subsection (f)(2) were complied with;

(3) 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;

(4) how the privacy of volunteers was maintained; and

(5) equity impacts of the pilot program, including the impacts of the pilot program on low-income commuters.

(o) FUNDING.—

(1) IN GENERAL.—Of the funds made available to carry out section 503(b) of title 23, United States Code, for each of fiscal years 2022 through 2026 $10,000,000 shall be used to carry out the pilot program under this section.

(2) EXCESS FUNDS.—Any excess funds remaining after carrying out the pilot program under this section shall be available to make grants for pilot projects under section 13001.

SEC. 13003. PERFORMANCE MANAGEMENT DATA SUPPORT PROGRAM.

Section 6028(c) of the FAST Act (23 U.S.C. 150 note; Public Law 114–94) is amended by striking "fiscal years 2016 through 2020" and inserting "fiscal years 2022 through 2026".

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SEC. 13004. DATA INTEGRATION PILOT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a pilot program—

(1) to provide research and develop models that integrate, in near-real-time, data from multiple sources, including geolocated—

(A) weather conditions;

(B) roadway conditions;

(C) incidents, work zones, and other nonrecurring events related to emergency planning; and

(D) information from emergency responders; and

(2) to facilitate data integration between the Department, the National Weather Service, and other sources of data that provide real-time data with respect to roadway conditions during or as a result of severe weather events, including, at a minimum—

(A) winter weather;

(B) heavy rainfall; and

(C) tropical weather events.

(b) REQUIREMENTS.—In carrying out subsection (a)(1), the Secretary shall—

(1) address the safety, resiliency, and vulnerability of the transportation system to disasters; and

(2) develop tools for decisionmakers and other end-users who could use or benefit from the integrated data described in that subsection to improve public safety and mobility.

(c) TREATMENT.—Except as otherwise provided in this section, the Secretary shall carry out activities under the pilot program under this section as if—

(1) those activities were authorized under chapter 5 of title 23, United States Code; and

(2) the funds made available to carry out the pilot program were made available under that chapter.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,500,000 for each of fiscal years 2022 through 2026, to remain available until expended.

SEC. 13005. EMERGING TECHNOLOGY RESEARCH PILOT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a pilot program to conduct emerging technology research in accordance with this section.

(b) ACTIVITIES.—The pilot program under this section shall include—

(1) research and development activities relating to leveraging advanced and additive manufacturing technologies to increase the structural integrity and cost-effectiveness of surface transportation infrastructure; and

(2) research and development activities (including laboratory and test track supported accelerated pavement testing research regarding the impacts of connected, autonomous, and platooned vehicles on pavement and infrastructure performance)—

(A) to reduce the impact of automated and connected driving systems and advanced driver-assistance systems on pavement and infrastructure performance; and

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(B) to improve transportation infrastructure design in anticipation of increased usage of automated driving systems and advanced driver-assistance systems.

(c) TREATMENT.—Except as otherwise provided in this section, the Secretary shall carry out activities under the pilot program under this section as if—

(1) those activities were authorized under chapter 5 of title 23, United States Code; and

(2) the funds made available to carry out the pilot program were made available under that chapter.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2022 through 2026, to remain available until expended.

SEC. 13006. RESEARCH AND TECHNOLOGY DEVELOPMENT AND DEPLOYMENT.

(a) IN GENERAL.—Section 503 of title 23, United States Code, is amended—

(1) in subsection (a)(2), by striking "section 508" and inserting "section 6503 of title 49";

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (C), by striking "and" at the end;

(ii) in subparagraph (D), by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

"(E) engage with public and private entities to spur advancement of emerging transformative innovations through accelerated market readiness; and

"(F) consult frequently with public and private entities on new transportation technologies.";

(B) in paragraph (2)(C)—

(i) by redesignating clauses (x) through (xv) as clauses (xi) through (xvi), respectively; and

(ii) by inserting after clause (ix) the following:

"(x) safety measures to reduce the number of wildlife-vehicle collisions;";

(C) in paragraph (3)—

(i) in subparagraph (B)(viii), by inserting ", including weather," after "events"; and

(ii) in subparagraph (C)—

(I) in clause (xv), by inserting "extreme weather events and" after "withstand";

(II) in clause (xviii), by striking "and" at the end;

(III) in clause (xix), by striking the period at the end and inserting "; and"; and

(IV) by adding at the end the following:

"(xx) studies on the deployment and revenue potential of the deployment of energy and broadband infrastructure in highway rights-of-way, including potential adverse impacts of the use or nonuse of those rights-of-way.";

(D) in paragraph (6)—

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(i) in subparagraph (A), by striking "and" at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(C) to support research on non-market-ready technologies in consultation with public and private entities.";

(E) in paragraph (7)(B)—

(i) in the matter preceding clause (i), by inserting "innovations by leading" after "support";

(ii) in clause (iii), by striking "and" at the end;

(iii) in clause (iv), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(v) the evaluation of information from accelerated market readiness efforts, including non-market-ready technologies, in consultation with other offices of the Federal Highway Administration, the National Highway Traffic Safety Administration, and other key partners.";

(F) in paragraph (8)(A), by striking "future highway" and all that follows through "needs." and inserting the following: "current conditions and future needs of highways, bridges, and tunnels of the United States, including—

"(i) the conditions and performance of the highway network for freight movement;

"(ii) intelligent transportation systems;

"(iii) resilience needs; and

"(iv) the backlog of current highway, bridge, and tunnel needs."; and

(G) by adding at the end the following:

"(9) ANALYSIS TOOLS.—The Secretary may develop interactive modeling tools and databases that—

"(A) track the full condition of highway assets, including interchanges, and the reconstruction history of those assets;

"(B) can be used to assess transportation options;

"(C) allow for the monitoring and modeling of network-level traffic flows on highways; and

"(D) further Federal and State understanding of the importance of national and regional connectivity and the need for long-distance and interregional passenger and freight travel by highway and other surface transportation modes."; and

(3) in subsection (c)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by inserting "use of rights-of-way permissible under applicable law," after "structures,";

(ii) in subparagraph (D), by striking "and" at the end;

(iii) in subparagraph (E), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(F) disseminating and evaluating information from accelerated market readiness efforts, including non-market-ready technologies, to public and private entities.";

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(B) in paragraph (2)—

(i) in subparagraph (B)(iii), by striking "improved tools and methods to accelerate the adoption" and inserting "and deploy improved tools and methods to accelerate the adoption of early-stage and proven innovative practices and technologies and, as the Secretary determines to be appropriate, support continued implementation"; and

(ii) by adding at the end the following:

"(D) REPORT.—Not later than 2 years after the date of enactment of this subparagraph and every 2 years thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available on an internet website a report that describes—

"(i) the activities the Secretary has undertaken to carry out the program established under paragraph (1); and

"(ii) how and to what extent the Secretary has worked to disseminate non-market-ready technologies to public and private entities.";

(C) in paragraph (3)—

(i) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively;

(ii) by inserting after subparagraph (B) the following:

"(C) HIGH-FRICTION SURFACE TREATMENT APPLICATION STUDY.—

"(i) DEFINITION OF INSTITUTION.—In this subparagraph, the term 'institution' means a private sector entity, public agency, research university or other research institution, or organization representing transportation and technology leaders or other transportation stakeholders that, as determined by the Secretary, is capable of working with State highway agencies, the Federal Highway Administration, and the highway construction industry to develop and evaluate new products, design technologies, and construction methods that quickly lead to pavement improvements.

"(ii) STUDY.—The Secretary shall seek to enter into an agreement with an institution to carry out a study on the use of natural and synthetic calcined bauxite as a high-friction surface treatment application on pavement.

"(iii) REPORT.—Not later than 18 months after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Secretary shall submit a report on the results of the study under clause (ii) to—

"(I) the Committee on Environment and Public Works of the Senate;

"(II) the Committee on Transportation and Infrastructure of the House of Representatives;

"(III) the Federal Highway Administration; and

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"(IV) the American Association of State Highway and Transportation Officials.";

(iii) in subparagraph (D) (as so redesignated), by striking "fiscal years 2016 through 2020" and inserting "fiscal years 2022 through 2026"; and

(iv) in subparagraph (E) (as so redesignated)—

(I) in clause (i), by striking "annually" and inserting "once every 3 years"; and

(II) in clause (ii)—

(aa) in subclause (III), by striking "and" at the end;

(bb) in subclause (IV), by striking the period at the end and inserting a semicolon; and

(cc) by adding at the end the following:

"(V) pavement monitoring and data collection practices;

"(VI) pavement durability and resilience;

"(VII) stormwater management;

"(VIII) impacts on vehicle efficiency;

"(IX) the energy efficiency of the production of paving materials and the ability of paving materials to enhance the environment and promote sustainability; and

"(X) integration of renewable energy in pavement designs."; and

(D) by adding at the end the following:

"(5) ACCELERATED IMPLEMENTATION AND DEPLOYMENT OF ADVANCED DIGITAL CONSTRUCTION MANAGEMENT SYSTEMS.—

"(A) IN GENERAL.—The Secretary shall establish and implement a program under the technology and innovation deployment program established under paragraph (1) to promote, implement, deploy, demonstrate, showcase, support, and document the application of advanced digital construction management systems, practices, performance, and benefits.

"(B) GOALS.—The goals of the accelerated implementation and deployment of advanced digital construction management systems program established under subparagraph (A) shall include—

"(i) accelerated State adoption of advanced digital construction management systems applied throughout the construction lifecycle (including through the design and engineering, construction, and operations phases) that—

"(I) maximize interoperability with other systems, products, tools, or applications;

"(II) boost productivity;

"(III) manage complexity;

"(IV) reduce project delays and cost overruns; and

"(V) enhance safety and quality;

"(ii) more timely and productive information-sharing among stakeholders through reduced reliance on paper to manage construction processes and deliverables such as blueprints, design drawings,

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procurement and supply-chain orders, equipment logs, daily progress reports, and punch lists;

"(iii) deployment of digital management systems that enable and leverage the use of digital technologies on construction sites by contractors, such as state-of-the-art automated and connected machinery and optimized routing software that allows construction workers to perform tasks faster, safer, more accurately, and with minimal supervision;

"(iv) the development and deployment of best practices for use in digital construction management;

"(v) increased technology adoption and deployment by States and units of local government that enables project sponsors—

"(I) to integrate the adoption of digital management systems and technologies in contracts; and

"(II) to weigh the cost of digitization and technology in setting project budgets;

"(vi) technology training and workforce development to build the capabilities of project managers and sponsors that enables States and units of local government—

"(I) to better manage projects using advanced construction management technologies; and

"(II) to properly measure and reward technology adoption across projects of the State or unit of local government;

"(vii) development of guidance to assist States in updating regulations of the State to allow project sponsors and contractors—

"(I) to report data relating to the project in digital formats; and

"(II) to fully capture the efficiencies and benefits of advanced digital construction management systems and related technologies;

"(viii) reduction in the environmental footprint of construction projects using advanced digital construction management systems resulting from elimination of congestion through more efficient projects; and

"(ix) enhanced worker and pedestrian safety resulting from increased transparency.

"(C) FUNDING.—For each of fiscal years 2022 through 2026, the Secretary shall obligate from funds made available to carry out this subsection $20,000,000 to accelerate the deployment and implementation of advanced digital construction management systems.

"(D) PUBLICATION.—

"(i) IN GENERAL.—Not less frequently than annually, the Secretary shall issue and make available to the public on a website a report on—

"(I) progress made in the implementation of advanced digital management systems by States; and

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"(II) the costs and benefits of the deployment of new technology and innovations that substantially and directly resulted from the program established under this paragraph.

"(ii) INCLUSIONS.—The report under clause (i) may include an analysis of—

"(I) Federal, State, and local cost savings;

"(II) project delivery time improvements;

"(III) congestion impacts; and

"(IV) safety improvements for roadway users and construction workers.".

(b) ADVANCED TRANSPORTATION TECHNOLOGIES AND INNOVATIVE MOBILITY DEPLOYMENT.—Section 503(c)(4) of title 23, United States Code, is amended—

(1) in the heading, by inserting "AND INNOVATIVE MOBILITY" before "DEPLOYMENT";

(2) by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—The Secretary shall provide grants to eligible entities to deploy, install, and operate advanced transportation technologies to improve safety, mobility, efficiency, system performance, intermodal connectivity, and infrastructure return on investment.";

(3) in subparagraph (B)—

(A) in clause (i), by striking "the enhanced use" and inserting "optimization";

(B) in clause (v)—

(i) by striking "transit," and inserting "work zone, weather, transit, paratransit,"; and

(ii) by striking "and accessible transportation" and inserting ", accessible, and integrated transportation and transportation services";

(C) by redesignating clauses (i) through (viii) as clauses (iii), (iv), (v), (vi), (vii), (ix), (x), and (xi), respectively;

(D) by inserting before clause (iii) (as so redesignated) the following:

"(i) improve the mobility of people and goods;

"(ii) improve the durability and extend the life of transportation infrastructure;";

(E) in clause (iv) (as so redesignated), by striking "deliver" and inserting "protect the environment and deliver";

(F) by inserting after clause (vii) (as so redesignated) the following:

"(viii) facilitate account-based payments for transportation access and services and integrate payment systems across modes;";

(G) in clause (x) (as so redesignated), by striking "or" at the end;

(H) in clause (xi) (as so redesignated)—

(i) by inserting "vehicle-to-pedestrian," after "vehicle-to-infrastructure,"; and

(ii) by striking the period at the end and inserting "; or"; and

(I) by adding at the end the following:

"(xii) incentivize travelers—

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"(I) to share trips during periods in which travel demand exceeds system capacity; or

"(II) to shift trips to periods in which travel demand does not exceed system capacity.";

(4) in subparagraph (C)—

(A) in clause (i), by striking "Not later" and all that follows through "thereafter" and inserting "Each fiscal year for which funding is made available for activities under this paragraph"; and

(B) in clause (ii)—

(i) in subclause (I), by inserting "mobility," after "safety,"; and

(ii) in subclause (II)—

(I) in item (bb), by striking "and" at the end;

(II) in item (cc), by striking the period at the end and inserting "; and"; and

(III) by adding at the end the following:

"(dd) facilitating payment for transportation services.";

(5) in subparagraph (D)—

(A) in clause (i), by striking "Not later" and all that follows through "thereafter" and inserting "Each fiscal year for which funding is made available for activities under this paragraph"; and

(B) in clause (ii)—

(i) by striking "In awarding" and inserting the following:

"(I) IN GENERAL.—Subject to subclause (II), in awarding"; and

(ii) by adding at the end the following:

"(II) RURAL SET-ASIDE.—Not less than 20 percent of the amounts made available to carry out this paragraph shall be reserved for projects serving rural areas.";

(6) in subparagraph (E)—

(A) by redesignating clauses (iii) through (ix) as clauses (iv), (v), (vi), (vii), (viii), (xi), and (xiv), respectively;

(B) by inserting after clause (ii) the following:

"(iii) advanced transportation technologies to improve emergency evacuation and response by Federal, State, and local authorities;";

(C) by inserting after clause (viii) (as so redesignated) the following:

"(ix) integrated corridor management systems;

"(x) advanced parking reservation or variable pricing systems;";

(D) in clause (xi) (as so redesignated)—

(i) by inserting ", toll collection," after "pricing"; and

(ii) by striking "or" at the end;

(E) by inserting after clause (xi) (as so redesignated) the following:

"(xii) technology that enhances high occupancy vehicle toll lanes, cordon pricing, or congestion pricing;

"(xiii) integration of transportation service payment systems;";

(F) in clause (xiv) (as so redesignated)—

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(i) by striking "and access" and inserting ", access, and on-demand transportation service";

(ii) by inserting "and other shared-use mobility applications" after "ridesharing"; and

(iii) by striking the period at the end and inserting a semicolon; and

(G) by adding at the end the following:

"(xv) retrofitting dedicated short-range communications (DSRC) technology deployed as part of an existing pilot program to cellular vehicle-to-everything (C–V2X) technology, subject to the condition that the retrofitted technology operates only within the existing spectrum allocations for connected vehicle systems; or

"(xvi) advanced transportation technologies, in accordance with the research areas described in section 6503 of title 49.";

(7) in subparagraph (F)(ii)(IV), by striking "efficiency and multimodal system performance" and inserting "mobility, efficiency, multimodal system performance, and payment system performance";

(8) in subparagraph (G)—

(A) by redesignating clauses (vi) through (viii) as clauses (vii) through (ix), respectively; and

(B) by inserting after clause (v) the following:

"(vi) improved integration of payment systems;";

(9) in subparagraph (I)(i), by striking "fiscal years 2016 through 2020" and inserting "fiscal years 2022 through 2026";

(10) in subparagraph (J), by striking "50" and inserting "80"; and

(11) in subparagraph (N)—

(A) in the matter preceding clause (i), by striking ", the following definitions apply";

(B) in clause (i), by striking "representing a population of over 200,000"; and

(C) in clause (iii), in the matter preceding subclause (I), by striking "a any" and inserting "any".

(c) CENTER OF EXCELLENCE ON NEW MOBILITY AND AUTOMATED VEHICLES.—Section 503(c) of title 23, United States Code (as amended by subsection (a)(3)(D)), is amended by adding at the end the following:

"(6) CENTER OF EXCELLENCE.—

"(A) DEFINITIONS.—In this paragraph:

"(i) HIGHLY AUTOMATED VEHICLE.—The term 'highly automated vehicle' means a motor vehicle that—

"(I) has a taxable gross weight (as defined in section 41.4482(b)–1 of title 26, Code of Federal Regulations (or successor regulations)) of 10,000 pounds or less; and

"(II) is equipped with a Level 3, Level 4, or Level 5 automated driving system (as defined in the SAE International Recommended Practice numbered J3016 and dated June 15, 2018 (or a subsequent standard adopted by the Secretary)).

"(ii) NEW MOBILITY.—The term 'new mobility' includes shared services such as—

"(I) docked and dockless bicycles;

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"(II) docked and dockless electric scooters; and
"(III) transportation network companies.

"(B) ESTABLISHMENT.—Not later than 1 year after the date of enactment of the Surface Transportation Reauthorization Act of 2021, the Secretary shall establish a Center of Excellence to collect, conduct, and fund research on the impacts of new mobility and highly automated vehicles on land use, urban design, transportation, real estate, equity, and municipal budgets.

"(C) REPORT.—Not later than 1 year after the date on which the Center of Excellence is established, the Secretary shall submit a report that describes the results of the research regarding the impacts of new mobility and highly automated vehicles to the Committees on Environment and Public Works and Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives.

"(D) PARTNERSHIPS.—In establishing the Center of Excellence under subparagraph (B), the Secretary shall enter into appropriate partnerships with any institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) or public or private research entity.".

(d) ACCELERATED IMPLEMENTATION AND DEPLOYMENT OF ADVANCED DIGITAL CONSTRUCTION MANAGEMENT SYSTEMS.—Not later than 1 year after the date of enactment of this Act, 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 includes—

(1) a description of—

(A) the current status of the use of advanced digital construction management systems in each State; and

(B) the progress of each State toward accelerating the adoption of advanced digital construction management systems; and

(2) an analysis of the savings in project delivery time and project costs that can be achieved through the use of advanced digital construction management systems.

(e) OPEN CHALLENGE AND RESEARCH PROPOSAL PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish an open challenge and research proposal pilot program under which eligible entities may propose open highway challenges and research proposals that are linked to identified or potential research needs.

(2) REQUIREMENTS.—A research proposal submitted to the Secretary by an eligible entity shall address—

(A) a research need identified by the Secretary or the Administrator of the Federal Highway Administration; or

(B) an issue or challenge that the Secretary determines to be important.

(3) ELIGIBLE ENTITIES.—An entity eligible to submit a research proposal under the pilot program under paragraph (1) is—

(A) a State;

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(B) a unit of local government;

(C) a university transportation center under section 5505 of title 49, United States Code;

(D) a private nonprofit organization;

(E) a private sector organization working in collaboration with an entity described in subparagraphs (A) through (D); and

(F) any other individual or entity that the Secretary determines to be appropriate.

(4) PROJECT REVIEW.—The Secretary shall—

(A) review each research proposal submitted under the pilot program under paragraph (1); and

(B) provide to the eligible entity a written notice that—

(i) if the research proposal is not selected—

(I) notifies the eligible entity that the research proposal has not been selected for funding;

(II) provides an explanation as to why the research proposal was not selected, including if the research proposal does not cover an area of need; and

(III) if applicable, recommend that the research proposal be submitted to another research program and provide guidance and direction to the eligible entity and the proposed research program office; and

(ii) if the research proposal is selected, notifies the eligible entity that the research proposal has been selected for funding.

(5) FEDERAL SHARE.—

(A) IN GENERAL.—The Federal share of the cost of an activity carried out under this subsection shall not exceed 80 percent.

(B) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, facility, and hardware development costs, shall be credited toward the non-Federal share of the cost of an activity carried out under this subsection.

(f) CONFORMING AMENDMENT.—Section 167 of title 23, United States Code, is amended—

(1) by striking subsection (h); and

(2) by redesignating subsections (i) through (l) as subsections (h) through (k), respectively.

SEC. 13007. WORKFORCE DEVELOPMENT, TRAINING, AND EDUCATION.

(a) SURFACE TRANSPORTATION WORKFORCE DEVELOPMENT, TRAINING, AND EDUCATION.—Section 504(e) of title 23, United States Code, is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (D) through (G) as subparagraphs (E), (F), (H), and (I), respectively;

(B) by inserting after subparagraph (C) the following:

"(D) pre-apprenticeships, apprenticeships, and career opportunities for on-the-job training;";

(C) in subparagraph (E) (as so redesignated), by striking "or community college" and inserting ", college, community college, or vocational school"; and

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(D) by inserting after subparagraph (F) (as so redesignated) the following:

"(G) activities associated with workforce training and employment services, such as targeted outreach and partnerships with industry, economic development organizations, workforce development boards, and labor organizations;";

(2) in paragraph (2), by striking "paragraph (1)(G)" and inserting "paragraph (1)(I)"; and

(3) in paragraph (3)—

(A) by striking the period at the end and inserting a semicolon;

(B) by striking "including activities" and inserting the following: "including—

"(A) activities"; and

(C) by adding at the end the following:

"(B) activities that address current workforce gaps, such as work on construction projects, of State and local transportation agencies;

"(C) activities to develop a robust surface transportation workforce with new skills resulting from emerging transportation technologies; and

"(D) activities to attract new sources of job-creating investment.".

(b) TRANSPORTATION EDUCATION AND TRAINING DEVELOPMENT AND DEPLOYMENT PROGRAM.—Section 504(f) of title 23, United States Code, is amended—

(1) in the subsection heading, by striking "DEVELOPMENT" and inserting "AND TRAINING DEVELOPMENT AND DEPLOYMENT";

(2) by striking paragraph (1) and inserting the following:

"(1) ESTABLISHMENT.—The Secretary shall establish a program to make grants to educational institutions or State departments of transportation, in partnership with industry and relevant Federal departments and agencies—

"(A) to develop, test, and review new curricula and education programs to train individuals at all levels of the transportation workforce; or

"(B) to implement the new curricula and education programs to provide for hands-on career opportunities to meet current and future needs.";

(3) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking "shall" and inserting "may";

(B) in subparagraph (A), by inserting "current or future" after "specific"; and

(C) in subparagraph (E)—

(i) by striking "in nontraditional departments";

(ii) by inserting "construction," after "such as"; and

(iii) by inserting "or emerging" after "industrial";

(4) by redesignating paragraph (3) as paragraph (4); and

(5) by inserting after paragraph (2) the following:

"(3) REPORTING.—The Secretary shall establish minimum reporting requirements for grant recipients under this subsection, which may include, with respect to a program carried out with a grant under this subsection—

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"(A) the percentage or number of program participants that are employed during the second quarter after exiting the program;

"(B) the percentage or number of program participants that are employed during the fourth quarter after exiting the program;

"(C) the median earnings of program participants that are employed during the second quarter after exiting the program;

"(D) the percentage or number of program participants that obtain a recognized postsecondary credential or a secondary school diploma (or a recognized equivalent) during participation in the program or by not later than 1 year after exiting the program; and

"(E) the percentage or number of program participants that, during a program year—

"(i) are in an education or training program that leads to a recognized postsecondary credential or employment; and

"(ii) are achieving measurable skill gains toward such a credential or employment.".

(c) USE OF FUNDS.—Section 504 of title 23, United States Code, is amended by adding at the end the following:

"(i) USE OF FUNDS.—The Secretary may use funds made available to carry out this section to carry out activities related to workforce development and technical assistance and training if—

"(1) the activities are authorized by another provision of this title; and

"(2) the activities are for entities other than employees of the Secretary, such as States, units of local government, Federal land management agencies, and Tribal governments.".

SEC. 13008. WILDLIFE-VEHICLE COLLISION RESEARCH.

(a) GENERAL AUTHORITIES AND REQUIREMENTS REGARDING WILDLIFE AND HABITAT.—Section 515(h)(2) of title 23, United States Code, is amended—

(1) in subparagraph (K), by striking "and" at the end;

(2) by redesignating subparagraphs (D), (E), (F), (G), (H), (I), (J), (K), and (L) as subparagraphs (E), (F), (G), (H), (I), (K), (L), (M), and (O), respectively;

(3) by inserting after subparagraph (C) the following:

"(D) a representative from a State, local, or regional wildlife, land use, or resource management agency;";

(4) by inserting after subparagraph (I) (as so redesignated) the following:

"(J) an academic researcher who is a biological or ecological scientist with expertise in transportation issues;"; and

(5) by inserting after subparagraph (M) (as so redesignated) the following:

"(N) a representative from a public interest group concerned with the impact of the transportation system on terrestrial and aquatic species and the habitat of those species; and".

(b) ANIMAL DETECTION SYSTEMS RESEARCH AND DEVELOPMENT.—Section 516(b)(6) of title 23, United States Code, is amended

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by inserting ", including animal detection systems to reduce the number of wildlife-vehicle collisions" after "systems".

SEC. 13009. TRANSPORTATION RESILIENCE AND ADAPTATION CENTERS OF EXCELLENCE.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding at the end the following:

"§ 520. Transportation Resilience and Adaptation Centers of Excellence

"(a) DEFINITION OF CENTER OF EXCELLENCE.—In this section, the term 'Center of Excellence' means a Center of Excellence for Resilience and Adaptation designated under subsection (b).

"(b) DESIGNATION.—The Secretary shall 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 and extreme weather by promoting the resilience of surface transportation infrastructure and infrastructure dependent on surface transportation.

"(c) ELIGIBILITY.—An entity eligible to be designated as a Center of Excellence is—

"(1) an institution of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)); or

"(2) a consortium of nonprofit organizations led by an institution of higher education.

"(d) APPLICATION.—To be eligible to be designated as a Center of Excellence, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a proposal that includes a description of the activities to be carried out with a grant under this section.

"(e) SELECTION.—

"(1) REGIONAL CENTERS OF EXCELLENCE.—The Secretary shall designate 1 regional Center of Excellence in each of the 10 Federal regions that comprise the Standard Federal Regions established by the Office of Management and Budget in the document entitled 'Standard Federal Regions' and dated April 1974 (circular A–105).

"(2) NATIONAL CENTER OF EXCELLENCE.—The Secretary shall designate 1 national Center of Excellence to coordinate the activities of all 10 regional Centers of Excellence to minimize duplication and promote coordination and dissemination of research among the Centers.

"(3) CRITERIA.—In selecting eligible entities to designate as a Center of Excellence, the Secretary shall consider—

"(A) the past experience and performance of the eligible entity in carrying out activities described in subsection (g);

"(B) the merits of the proposal of an eligible entity and the extent to which the proposal would—

"(i) advance the state of practice in resilience planning and identify innovative resilience solutions for transportation assets and systems;

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"(ii) support activities carried out under the PROTECT program under section 176;

"(iii) support and build on work being carried out by another Federal agency relating to resilience;

"(iv) inform transportation decisionmaking at all levels of government;

"(v) engage local, regional, Tribal, State, and national stakeholders, including, if applicable, stakeholders representing transportation, transit, urban, and land use planning, natural resources, environmental protection, hazard mitigation, and emergency management; and

"(vi) engage community groups and other stakeholders that will be affected by transportation decisions, including underserved, economically disadvantaged, rural, and predominantly minority communities; and

"(C) the local, regional, Tribal, State, and national impacts of the proposal of the eligible entity.

"(f) GRANTS.—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 described in subsection (g).

"(g) ACTIVITIES.—In carrying out this section, the Secretary shall ensure that a Center of Excellence uses the funds from a grant under subsection (f) to promote resilient transportation infrastructure, including through—

"(1) 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;

"(2) development of new design, operations, and maintenance standards for transportation infrastructure that can inform Federal and State decisionmaking;

"(3) research and development of new materials and technologies that could be integrated into existing and new transportation infrastructure;

"(4) development, refinement, and piloting of new and emerging resilience improvements and strategies, including natural infrastructure approaches and relocation;

"(5) development of and investment in new approaches for facilitating meaningful engagement in transportation decisionmaking by local, Tribal, regional, or national stakeholders and communities;

"(6) technical capacity building to facilitate the ability of local, regional, Tribal, State, and national stakeholders—

"(A) to assess the vulnerability of transportation infrastructure assets and systems;

"(B) to develop community response strategies;

"(C) to meaningfully engage with community stakeholders; and

"(D) to develop strategies and improvements for enhancing transportation infrastructure resilience under

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current conditions and a range of potential future conditions;

"(7) workforce development and training;

"(8) development and dissemination of data, tools, techniques, assessments, and information that informs Federal, State, Tribal, and local government decisionmaking, policies, planning, and investments;

"(9) education and outreach regarding transportation infrastructure resilience; and

"(10) technology transfer and commercialization.

"(h) FEDERAL SHARE.—The Federal share of the cost of an activity under this section, including the costs of establishing and operating a Center of Excellence, shall be 50 percent.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by adding at the end the following:

"520. Transportation Resilience and Adaptation Centers of Excellence.".

SEC. 13010. TRANSPORTATION ACCESS PILOT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) METROPOLITAN PLANNING ORGANIZATION.—The term "metropolitan planning organization" has the meaning given the term in section 134(b) of title 23, United States Code.

(2) STATE.—The term "State" has the meaning given the term in section 101(a) of title 23, United States Code.

(3) SURFACE TRANSPORTATION MODES.—The term "surface transportation modes" means—

(A) driving;

(B) public transportation;

(C) walking;

(D) cycling; and

(E) a combination of any of the modes of transportation described in subparagraphs (A) through (D).

(4) PILOT PROGRAM.—The term "pilot program" means the transportation pilot program established under subsection (b).

(5) REGIONAL TRANSPORTATION PLANNING ORGANIZATION.—The term "regional transportation planning organization" has the meaning given the term in section 134(b) of title 23, United States Code.

(b) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a transportation pilot program.

(c) PURPOSE.—The purpose of the pilot program is to develop or procure an accessibility data set and make that data set available to each eligible entity selected to participate in the pilot program—

(1) to improve the transportation planning of those eligible entities by—

(A) measuring the level of access by surface transportation modes to important destinations, which may include—

(i) jobs;

(ii) health care facilities;

(iii) child care services;

(iv) educational and workforce training facilities;

(v) housing;

(vi) food sources;

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(vii) points within the supply chain for freight commodities;

(viii) domestic or international markets; and

(ix) connections between surface transportation modes; and

(B) disaggregating the level of access by surface transportation modes by a variety of—

(i) population categories, which may include—

(I) low-income populations;

(II) minority populations;

(III) age;

(IV) disability; and

(V) geographical location; or

(ii) freight commodities, which may include—

(I) agricultural commodities;

(II) raw materials;

(III) finished products; and

(IV) energy commodities; and

(2) to assess the change in accessibility that would result from new transportation investments.

(d) ELIGIBLE ENTITIES.—An entity eligible to participate in the pilot program is—

(1) a State;

(2) a metropolitan planning organization; or

(3) a regional transportation planning organization.

(e) APPLICATION.—To be eligible to participate in the pilot program, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information relating to—

(1) previous experience of the eligible entity measuring transportation access or other performance management experience, if applicable;

(2) the types of important destinations to which the eligible entity intends to measure access;

(3) the types of data disaggregation the eligible entity intends to pursue;

(4) a general description of the methodology the eligible entity intends to apply; and

(5) if the applicant does not intend the pilot program to apply to the full area under the jurisdiction of the applicant, a description of the geographic area in which the applicant intends the pilot program to apply.

(f) SELECTION.—

(1) IN GENERAL.—The Secretary shall seek to achieve diversity of participants in the pilot program by selecting a range of eligible entities that shall include—

(A) States;

(B) metropolitan planning organizations that serve an area with a population of 200,000 people or fewer;

(C) metropolitan planning organizations that serve an area with a population of over 200,000 people; and

(D) regional transportation planning organizations.

(2) INCLUSIONS.—The Secretary shall seek to ensure that, among the eligible entities selected under paragraph (1), there is—

(A) a range of capacity and previous experience with measuring transportation access; and

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(B) a variety of proposed methodologies and focus areas for measuring level of access.

(g) DUTIES.—For each eligible entity participating in the pilot program, the Secretary shall—

(1) develop or acquire an accessibility data set described in subsection (c); and

(2) submit the data set to the eligible entity.

(h) METHODOLOGY.—In calculating the measures for the data set under the pilot program, the Secretary shall ensure that methodology is open source.

(i) AVAILABILITY.—The Secretary shall make an accessibility data set under the pilot program available to—

(1) units of local government within the jurisdiction of the eligible entity participating in the pilot program; and

(2) researchers.

(j) REPORT.—Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the pilot program, including the feasibility of developing and providing periodic accessibility data sets for all States, regions, and localities.

(k) TRANSPORTATION SYSTEM ACCESS.—

(1) IN GENERAL.—The Secretary shall establish consistent measures that States, metropolitan planning organizations, and regional transportation planning organizations may choose to adopt to assess the level of safe and convenient access by surface transportation modes to important destinations as described in subsection (c)(1)(A).

(2) SAVINGS PROVISION.—Nothing in this section provides the Secretary the authority—

(A) to establish a performance measure or require States or metropolitan planning organizations to set a performance target for access as described in paragraph (1); or

(B) to establish any other Federal requirement.

(l) FUNDING.—The Secretary shall carry out the pilot program using amounts made available to the Secretary for administrative expenses to carry out programs under the authority of the Secretary.

(m) SUNSET.—The pilot program shall terminate on the date that is 8 years after the date on which the pilot program is implemented.

TITLE IV—INDIAN AFFAIRS

SEC. 14001. DEFINITION OF SECRETARY.

In this title, the term "Secretary" means the Secretary of the Interior.

SEC. 14002. ENVIRONMENTAL REVIEWS FOR CERTAIN TRIBAL TRANSPORTATION FACILITIES.

(a) DEFINITION OF TRIBAL TRANSPORTATION SAFETY PROJECT.—

(1) IN GENERAL.—In this section, the term "tribal transportation safety project" means a project described in paragraph (2) that is eligible for funding under section 202 of title 23, United States Code.

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(2) PROJECT DESCRIBED.—A project described in this paragraph is a project that corrects or improves a hazardous road location or feature or addresses a highway safety problem through 1 or more of the activities described in any of the clauses under section 148(a)(4)(B) of title 23, United States Code.

(b) REVIEWS OF TRIBAL TRANSPORTATION SAFETY PROJECTS.—

(1) IN GENERAL.—The Secretary or the Secretary of Transportation, as applicable, or the head of another Federal agency responsible for a decision related to a tribal transportation safety project shall complete any approval or decision for the review of the tribal transportation safety project required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other applicable Federal law on an expeditious basis using the shortest existing applicable process.

(2) REVIEW OF APPLICATIONS.—Not later than 45 days after the date of receipt of a complete application by an Indian tribe for approval of a tribal transportation safety project, the Secretary or the Secretary of Transportation, as applicable, shall—

(A) take final action on the application; or

(B) provide the Indian tribe a schedule for completion of the review described in paragraph (1), including the identification of any other Federal agency that has jurisdiction with respect to the project.

(3) DECISIONS UNDER OTHER FEDERAL LAWS.—In any case in which a decision under any other Federal law relating to a tribal transportation safety project (including the issuance or denial of a permit or license) is required, not later than 45 days after the Secretary or the Secretary of Transportation, as applicable, has made all decisions of the lead agency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the project, the head of the Federal agency responsible for the decision shall—

(A) make the applicable decision; or

(B) provide the Indian tribe a schedule for making the decision.

(4) EXTENSIONS.—The Secretary or the Secretary of Transportation, as applicable, or the head of the Federal agency may extend the period under paragraph (2) or (3), as applicable, by an additional 30 days by providing the Indian tribe notice of the extension, including a statement of the need for the extension.

(5) NOTIFICATION AND EXPLANATION.—In any case in which a required action is not completed by the deadline under paragraph (2), (3), or (4), as applicable, the Secretary, the Secretary of Transportation, or the head of a Federal agency, as applicable, shall—

(A) notify the Committees on Indian Affairs and Environment and Public Works of the Senate and the Committee on Natural Resources of the House of Representatives of the failure to comply with the deadline; and

(B) provide to the Committees described in subparagraph (A) a detailed explanation of the reasons for the failure to comply with the deadline.

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SEC. 14003. PROGRAMMATIC AGREEMENTS FOR TRIBAL CATEGORICAL EXCLUSIONS.

(a) IN GENERAL.—The Secretary and the Secretary of Transportation shall enter into programmatic agreements with Indian tribes that establish efficient administrative procedures for carrying out environmental reviews for projects eligible for assistance under section 202 of title 23, United States Code.

(b) INCLUSIONS.—A programmatic agreement under subsection (a)—

(1) may include an agreement that allows an Indian tribe to determine, on behalf of the Secretary and the Secretary of Transportation, whether a project is categorically excluded from the preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(2) shall—

(A) require that the Indian tribe maintain adequate capability in terms of personnel and other resources to carry out applicable agency responsibilities pursuant to section 1507.2 of title 40, Code of Federal Regulations (or successor regulations);

(B) set forth the responsibilities of the Indian tribe for making categorical exclusion determinations, documenting the determinations, and achieving acceptable quality control and quality assurance;

(C) allow—

(i) the Secretary and the Secretary of Transportation to monitor compliance of the Indian tribe with the terms of the agreement; and

(ii) the Indian tribe to execute any needed corrective action;

(D) contain stipulations for amendments, termination, and public availability of the agreement once the agreement has been executed; and

(E) have a term of not more than 5 years, with an option for renewal based on a review by the Secretary and the Secretary of Transportation of the performance of the Indian tribe.

SEC. 14004. USE OF CERTAIN TRIBAL TRANSPORTATION FUNDS.

Section 202(d) of title 23, United States Code, is amended by striking paragraph (2) and inserting the following:

"(2) USE OF FUNDS.—Funds made available to carry out this subsection shall be used—

"(A) to carry out any planning, design, engineering, preconstruction, construction, and inspection of new or replacement tribal transportation facility bridges;

"(B) to replace, rehabilitate, seismically retrofit, paint, apply calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing composition; or

"(C) to implement any countermeasure for tribal transportation facility bridges classified as in poor condition, having a low load capacity, or needing geometric improvements, including multiple-pipe culverts.".

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SEC. 14005. BUREAU OF INDIAN AFFAIRS ROAD MAINTENANCE PROGRAM.

There are authorized to be appropriated to the Director of the Bureau of Indian Affairs to carry out the road maintenance program of the Bureau—

(1) $50,000,000 for fiscal year 2022;
(2) $52,000,000 for fiscal year 2023;
(3) $54,000,000 for fiscal year 2024;
(4) $56,000,000 for fiscal year 2025; and
(5) $58,000,000 for fiscal year 2026.

SEC. 14006. STUDY OF ROAD MAINTENANCE ON INDIAN LAND.

(a) DEFINITIONS.—In this section:

(1) INDIAN LAND.—The term "Indian land" has the meaning given the term "Indian lands" in section 3 of the Native American Business Development, Trade Promotion, and Tourism Act of 2000 (25 U.S.C. 4302).

(2) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

(3) ROAD.—The term "road" means a road managed in whole or in part by the Bureau of Indian Affairs.

(4) SECRETARY.—The term "Secretary" means the Secretary, acting through the Assistant Secretary for Indian Affairs.

(b) STUDY.—Not later than 2 years after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Transportation, shall carry out a study to evaluate—

(1) the long-term viability and useful life of existing roads on Indian land;

(2) any steps necessary to achieve the goal of addressing the deferred maintenance backlog of existing roads on Indian land;

(3) programmatic reforms and performance enhancements necessary to achieve the goal of restructuring and streamlining road maintenance programs on existing or future roads located on Indian land; and

(4) recommendations on how to implement efforts to coordinate with States, counties, municipalities, and other units of local government to maintain roads on Indian land.

(c) TRIBAL CONSULTATION AND INPUT.—Before beginning the study under subsection (b), the Secretary shall—

(1) consult with any Indian tribes that have jurisdiction over roads eligible for funding under the road maintenance program of the Bureau of Indian Affairs; and

(2) solicit and consider the input, comments, and recommendations of the Indian tribes described in paragraph (1).

(d) REPORT.—On completion of the study under subsection (b), the Secretary, in consultation with the Secretary of Transportation, shall submit to the Committees on Indian Affairs and Environment and Public Works of the Senate and the Committees on Natural Resources and Transportation and Infrastructure of the House of Representatives a report on the results and findings of the study.

(e) STATUS REPORT.—Not later than 2 years after the date of enactment of this Act, and not less frequently than every 2 years thereafter, the Secretary, in consultation with the Secretary of Transportation, shall submit to the Committees on Indian Affairs

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and Environment and Public Works of the Senate and the Committees on Natural Resources and Transportation and Infrastructure of the House of Representatives a report that includes a description of—

(1) the progress made toward addressing the deferred maintenance needs of the roads on Indian land, including a list of projects funded during the fiscal period covered by the report;

(2) the outstanding needs of the roads that have been provided funding to address the deferred maintenance needs;

(3) the remaining needs of any of the projects referred to in paragraph (1);

(4) how the goals described in subsection (b) have been met, including—

(A) an identification and assessment of any deficiencies or shortfalls in meeting the goals; and

(B) a plan to address the deficiencies or shortfalls in meeting the goals; and

(5) any other issues or recommendations provided by an Indian tribe under the consultation and input process under subsection (c) that the Secretary determines to be appropriate.

SEC. 14007. MAINTENANCE OF CERTAIN INDIAN RESERVATION ROADS.

The Commissioner of U.S. Customs and Border Protection may transfer funds to the Director of the Bureau of Indian Affairs to maintain, repair, or reconstruct roads under the jurisdiction of the Director, subject to the condition that the Commissioner and the Director shall mutually agree that the primary user of the subject road is U.S. Customs and Border Protection.

SEC. 14008. TRIBAL TRANSPORTATION SAFETY NEEDS.

(a) DEFINITIONS.—In this section:

(1) ALASKA NATIVE.—The term "Alaska Native" has the meaning given the term "Native" in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(2) ALASKA NATIVE VILLAGE.—The term "Alaska Native village" has the meaning given the term "Native village" in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(3) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

(b) BEST PRACTICES, STANDARDIZED CRASH REPORT FORM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary, Indian tribes, Alaska Native villages, and State departments of transportation shall develop—

(A) best practices for the compiling, analysis, and sharing of motor vehicle crash data for crashes occurring on Indian reservations and in Alaska Native communities; and

(B) a standardized form for use by Indian tribes and Alaska Native communities to carry out those best practices.

(2) PURPOSE.—The purpose of the best practices and standardized form developed under paragraph (1) shall be to improve the quality and quantity of crash data available to

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and used by the Federal Highway Administration, State departments of transportation, Indian tribes, and Alaska Native villages.

(3) REPORT.—On completion of the development of the best practices and standardized form under paragraph (1), the Secretary of Transportation shall submit to the Committees on Indian Affairs and Environment and Public Works of the Senate and the Committees on Natural Resources and Transportation and Infrastructure of the House of Representatives a report describing the best practices and standardized form.

(c) USE OF IMARS.—The Director of the Bureau of Indian Affairs shall require all law enforcement offices of the Bureau, for the purpose of reporting motor vehicle crash data for crashes occurring on Indian reservations and in Alaska Native communities—

(1) to use the crash report form of the applicable State; and

(2) to upload the information on that form to the Incident Management Analysis and Reporting System (IMARS) of the Department of the Interior.

(d) TRIBAL TRANSPORTATION PROGRAM SAFETY FUNDING.—Section 202(e)(1) of title 23, United States Code, is amended by striking "2 percent" and inserting "4 percent".

SEC. 14009. OFFICE OF TRIBAL GOVERNMENT AFFAIRS.

Section 102 of title 49, United States Code, is amended—

(1) in subsection (e)(1)—

(A) in the matter preceding subparagraph (A), by striking "6 Assistant" and inserting "7 Assistant";

(B) in subparagraph (C), by striking "and" after the semicolon;

(C) by redesignating subparagraph (D) as subparagraph (E); and

(D) by inserting after subparagraph (C) the following:

"(D) an Assistant Secretary for Tribal Government Affairs, who shall be appointed by the President; and"; and

(2) in subsection (f), by striking the subsection designation and heading and all that follows through the end of paragraph (1) and inserting the following:

"(f) OFFICE OF TRIBAL GOVERNMENT AFFAIRS.—

"(1) ESTABLISHMENT.—There is established in the Department an Office of Tribal Government Affairs, under the Assistant Secretary for Tribal Government Affairs—

"(A) to oversee the tribal self-governance program under section 207 of title 23;

"(B) to plan, coordinate, and implement policies and programs serving Indian Tribes and Tribal organizations;

"(C) to coordinate Tribal transportation programs and activities in all offices and administrations of the Department; and

"(D) to be a participant in any negotiated rulemakings relating to, or having an impact on, projects, programs, or funding associated with the Tribal transportation program under section 202 of title 23.".

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DIVISION B—SURFACE TRANSPORTATION INVESTMENT ACT OF 2021

SEC. 20001. SHORT TITLE.

This division may be cited as the "Surface Transportation Investment Act of 2021".

SEC. 20002. DEFINITIONS.

In this division:

(1) DEPARTMENT.—The term "Department" means the Department of Transportation.

(2) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

TITLE I—MULTIMODAL AND FREIGHT TRANSPORTATION

Subtitle A—Multimodal Freight Policy

SEC. 21101. OFFICE OF MULTIMODAL FREIGHT INFRASTRUCTURE AND POLICY.

(a) IN GENERAL.—Chapter 1 of title 49, United States Code, is amended by adding at the end the following:

"§ 118. Office of Multimodal Freight Infrastructure and Policy

"(a) DEFINITIONS.—In this section:

"(1) DEPARTMENT.—The term 'Department' means the Department of Transportation.

"(2) FREIGHT OFFICE.—The term 'Freight Office' means the Office of Multimodal Freight Infrastructure and Policy established under subsection (b).

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(b) ESTABLISHMENT.—The Secretary shall establish within the Department an Office of Multimodal Freight Infrastructure and Policy.

"(c) PURPOSES.—The purposes of the Freight Office shall be—

"(1) to carry out the national multimodal freight policy described in section 70101;

"(2) to administer and oversee certain multimodal freight grant programs within the Department in accordance with subsection (d);

"(3) to promote and facilitate the sharing of information between the private and public sectors with respect to freight issues;

"(4) to conduct research on improving multimodal freight mobility, and to oversee the freight research activities of the various agencies within the Department;

"(5) to assist cities and States in developing freight mobility and supply chain expertise;

"(6) to liaise and coordinate with other Federal departments and agencies; and

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"(7) to carry out other duties, as prescribed by the Secretary.

"(d) ADMINISTRATION OF POLICIES AND PROGRAMS.—The Freight Office shall—

"(1) develop and manage—

"(A) the national freight strategic plan described in section 70102; and

"(B) the National Multimodal Freight Network established under section 70103;

"(2)(A) oversee the development and updating of the State freight plans described in section 70202; and

"(B) provide guidance or best practices relating to the development and updating of State freight plans under that section;

"(3)(A) administer multimodal freight grant programs, including multimodal freight grants established under section 117 of title 23; and

"(B) establish procedures for analyzing and evaluating applications for grants under those programs;

"(4) assist States in the establishment of—

"(A) State freight advisory committees under section 70201; and

"(B) multi-State freight mobility compacts under section 70204; and

"(5) provide to the Bureau of Transportation Statistics input regarding freight data and planning tools.

"(e) ASSISTANT SECRETARY.—

"(1) IN GENERAL.—The Freight Office shall be headed by an Assistant Secretary for Multimodal Freight, who shall—

"(A) be appointed by the President, by and with the advice and consent of the Senate; and

"(B) have professional standing and demonstrated knowledge in the field of freight transportation.

"(2) DUTIES.—The Assistant Secretary shall—

"(A) report to the Under Secretary of Transportation for Policy;

"(B) be responsible for the management and oversight of the activities, decisions, operations, and personnel of the Freight Office;

"(C) work with the modal administrations of the Department to encourage multimodal collaboration; and

"(D) carry out such additional duties as the Secretary may prescribe.

"(f) CONSOLIDATION AND ELIMINATION OF DUPLICATIVE OFFICES.—

"(1) CONSOLIDATION OF OFFICES AND OFFICE FUNCTIONS.—The Secretary may consolidate into the Freight Office any office or office function within the Department that the Secretary determines has duties, responsibilities, resources, or expertise that support the purposes of the Freight Office.

"(2) ELIMINATION OF OFFICES.—The Secretary may eliminate any office within the Department if the Secretary determines that—

"(A) the purposes of the office are duplicative of the purposes of the Freight Office;

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"(B) the office or the functions of the office have been substantially consolidated with the Freight Office pursuant to paragraph (1);

"(C) the elimination of the office will not adversely affect the requirements of the Secretary under any Federal law; and

"(D) the elimination of the office will improve the efficiency and effectiveness of the programs and functions conducted by the office.

"(g) STAFFING AND BUDGETARY RESOURCES.—

"(1) IN GENERAL.—The Secretary shall ensure that the Freight Office is adequately staffed and funded.

"(2) STAFFING.—

"(A) TRANSFER OF POSITIONS TO FREIGHT OFFICE.—Subject to subparagraph (B), the Secretary may transfer to the Freight Office any position within any other office of the Department if the Secretary determines that the position is necessary to carry out the purposes of the Freight Office.

"(B) REQUIREMENT.—If the Secretary transfers a position to the Freight Office pursuant to subparagraph (A), the Secretary, in coordination with the appropriate modal administration of the Department, shall ensure that the transfer of the position does not adversely affect the requirements of the modal administration under any Federal law.

"(3) BUDGETARY RESOURCES.—

"(A) TRANSFER OF FUNDS FROM CONSOLIDATED OR ELIMINATED OFFICES.—

"(i) IN GENERAL.—To carry out the purposes of the Freight Office, the Secretary may transfer to the Freight Office from any office or office function that is consolidated or eliminated under subsection (f) any funds allocated for the consolidated or eliminated office or office function.

"(ii) RETRANSFER.—Any portion of any funds or limitations of obligations transferred to the Freight Office pursuant to clause (i) may be transferred back to, and merged with, the original account.

"(B) TRANSFER OF FUNDS ALLOCATED FOR ADMINISTRATIVE COSTS.—

"(i) IN GENERAL.—The Secretary may transfer to the Freight Office any funds allocated for the administrative costs of the programs referred to in subsection (d)(3).

"(ii) RETRANSFER.—Any portion of any funds or limitations of obligations transferred to the Freight Office pursuant to clause (i) may be transferred back to, and merged with, the original account.

"(h) WEBSITE.—

"(1) DESCRIPTION OF FREIGHT OFFICE.—The Secretary shall make publicly available on the website of the Department a description of the Freight Office, including a description of—

"(A) the programs managed or made available by the Freight Office; and

"(B) the eligibility requirements for those programs.

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"(2) CLEARINGHOUSE.—The Secretary may establish a clearinghouse for tools, templates, guidance, and best practices on a page of the website of the Department that supports the purposes of this section.

"(i) NOTIFICATION TO CONGRESS.—Not later than 1 year after the date of enactment of this section, and not less frequently than once every 180 days thereafter until the date on which the Secretary determines that the requirements of this section have been met, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a notification that—

"(1) describes—

"(A) the programs and activities administered or overseen by the Freight Office; and

"(B) the status of those programs and activities;

"(2) identifies—

"(A) the number of employees working in the Freight Office as of the date of the notification;

"(B) the total number of employees expected to join the Freight Office to support the programs and activities described in paragraph (1); and

"(C) the total number of positions that, as a result of the consolidation of offices under this section, were—

"(i) eliminated; or

"(ii) transferred, assigned, or joined to the Freight Office;

"(3)(A) indicates whether the Secretary has consolidated into the Freight Office any office or office function pursuant to subsection (f)(1); and

"(B) if the Secretary has consolidated such an office or function, describes the rationale for the consolidation;

"(4)(A) indicates whether the Secretary has eliminated any office pursuant to subsection (f)(2); and

"(B) if the Secretary has eliminated such an office, describes the rationale for the elimination;

"(5) describes any other actions carried out by the Secretary to implement this section; and

"(6) describes any recommendations of the Secretary for legislation that may be needed to further implement this section.

"(j) SAVINGS PROVISIONS.—

"(1) EFFECT ON OTHER LAW.—Except as otherwise provided in this section, nothing in this section alters or affects any law (including regulations) with respect to a program referred to in subsection (d).

"(2) EFFECT ON RESPONSIBILITIES OF OTHER AGENCIES.—Except as otherwise provided in this section, nothing in this section abrogates the responsibilities of any agency, operating administration, or office within the Department that is otherwise charged by law (including regulations) with any aspect of program administration, oversight, or project approval or implementation with respect to a program or project subject to the responsibilities of the Freight Office under this section.

"(3) EFFECT ON PENDING APPLICATIONS.—Nothing in this section affects any pending application under a program referred to in subsection (d) that was received by the Secretary

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on or before the date of enactment of the Surface Transportation Investment Act of 2021.

"(k) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section.

"(2) CERTAIN ACTIVITIES.—Authorizations under subsections (f) and (g) are subject to appropriations.".

(b) GAO REVIEW.—The Comptroller General of the United States shall—

(1) conduct a review of the activities carried out by the Secretary pursuant to section 118 of title 49, United States Code; and

(2) develop recommendations regarding additional activities—

(A) to improve the consolidation of duplicative functions within the Department; and

(B) to promote increased staff efficiency for program management within the Department.

(c) CLERICAL AMENDMENT.—The analysis for chapter 1 of title 49, United States Code, is amended by inserting after the item relating to section 117 the following:

"118. Office of Multimodal Freight Infrastructure and Policy.".

(d) CONFORMING AMENDMENTS.—

(1) Section 70101(c) of title 49, United States Code, is amended, in the matter preceding paragraph (1), by striking "Under Secretary of Transportation for Policy" and inserting "Assistant Secretary for Multimodal Freight".

(2) Section 70102 of title 49, United States Code, is amended—

(A) in subsection (a), in the matter preceding paragraph (1), by striking "Not later" and all that follows through "the Under Secretary of Transportation for Policy" and inserting "The Assistant Secretary for Multimodal Freight (referred to in this section as the 'Assistant Secretary')";

(B) in subsection (b)(4), in the matter preceding subparagraph (A), by striking "Under Secretary" and inserting "Assistant Secretary";

(C) in subsection (c), by striking "Under Secretary" and inserting "Assistant Secretary"; and

(D) in subsection (d), in the matter preceding paragraph (1), by striking "Under Secretary" and inserting "Assistant Secretary".

(3) Section 70103 of title 49, United States Code, is amended—

(A) in subsection (a), in the matter preceding paragraph (1), by striking "Under Secretary of Transportation for Policy" and inserting "Assistant Secretary for Multimodal Freight (referred to in this section as the 'Assistant Secretary')";

(B) by striking subsection (b);

(C) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively;

(D) in subsection (b) (as so redesignated)—

(i) in the subsection heading, by striking "FINAL NETWORK" and inserting "DESIGNATION OF NATIONAL MULTIMODAL FREIGHT NETWORK";

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(ii) in paragraph (1), in the matter preceding subparagraph (A), by striking "Not later" and all that follows through "Under Secretary" and inserting "The Assistant Secretary";

(iii) in paragraph (2), in the matter preceding subparagraph (A), by striking "Under Secretary" and inserting "Assistant Secretary"; and

(iv) in paragraph (3), in the matter preceding subparagraph (A), by striking "Under Secretary" and inserting "Assistant Secretary"; and

(E) in subsection (c) (as so redesignated)—

(i) by striking "subsection (c)" each place it appears and inserting "subsection (b)"; and

(ii) by striking "Under Secretary" and inserting "Assistant Secretary".

(4) Section 116(d)(1) of title 49, United States Code, is amended by striking subparagraph (D).

SEC. 21102. UPDATES TO NATIONAL FREIGHT PLAN.

Section 70102(b) of title 49, United States Code, is amended—

(1) in paragraph (10), by striking "and" at the end;

(2) in paragraph (11), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(12) best practices for reducing environmental impacts of freight movement (including reducing local air pollution from freight movement, stormwater runoff, and wildlife habitat loss resulting from freight facilities, freight vehicles, or freight activity);

"(13) possible strategies to increase the resilience of the freight system, including the ability to anticipate, prepare for, or adapt to conditions, or withstand, respond to, or recover rapidly from disruptions, including extreme weather and natural disasters;

"(14) strategies to promote United States economic growth and international competitiveness;

"(15) consideration of any potential unique impacts of the national freight system on rural and other underserved and historically disadvantaged communities;

"(16) strategies for decarbonizing freight movement, as appropriate; and

"(17) consideration of the impacts of e-commerce on the national multimodal freight system.".

SEC. 21103. STATE COLLABORATION WITH NATIONAL MULTIMODAL FREIGHT NETWORK.

Subsection (b) of section 70103 of title 49, United States Code (as redesignated by section 21101(d)(3)(C)), is amended—

(1) in paragraph (3), by striking subparagraph (C) and inserting the following:

"(C) provide to the States an opportunity to submit proposed designations from the States in accordance with paragraph (4).."; and

(2) in paragraph (4)—

(A) in subparagraph (C)(i), by striking "20 percent" and inserting "30 percent"; and

(B) by adding at the end the following:

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"(E) CONDITION FOR ACCEPTANCE.—The Secretary shall accept from a State a designation under subparagraph (D) only if the Secretary determines that the designation meets the applicable requirements of subparagraph (A).".

SEC. 21104. IMPROVING STATE FREIGHT PLANS.

(a) IN GENERAL.—Section 70202 of title 49, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (9), by striking "and" at the end;

(B) by redesignating paragraph (10) as paragraph (17); and

(C) by inserting after paragraph (9) the following:

"(10) the most recent commercial motor vehicle parking facilities assessment conducted by the State under subsection (f);

"(11) the most recent supply chain cargo flows in the State, expressed by mode of transportation;

"(12) an inventory of commercial ports in the State;

"(13) if applicable, consideration of the findings or recommendations made by any multi-State freight compact to which the State is a party under section 70204;

"(14) the impacts of e-commerce on freight infrastructure in the State;

"(15) considerations of military freight;

"(16) strategies and goals to decrease—

"(A) the severity of impacts of extreme weather and natural disasters on freight mobility;

"(B) the impacts of freight movement on local air pollution;

"(C) the impacts of freight movement on flooding and stormwater runoff; and

"(D) the impacts of freight movement on wildlife habitat loss; and"; and

(2) by adding at the end the following:

"(f) COMMERCIAL MOTOR VEHICLE PARKING FACILITIES ASSESSMENTS.—As part of the development or updating, as applicable, of a State freight plan under this section, each State that receives funding under section 167 of title 23, in consultation with relevant State motor carrier safety personnel, shall conduct an assessment of—

"(1) the capability of the State, together with the private sector in the State, to provide adequate parking facilities and rest facilities for commercial motor vehicles engaged in interstate transportation;

"(2) the volume of commercial motor vehicle traffic in the State; and

"(3) whether there exist any areas within the State with a shortage of adequate commercial motor vehicle parking facilities, including an analysis (economic or otherwise, as the State determines to be appropriate) of the underlying causes of such a shortage.

"(g) PRIORITY.—Each State freight plan under this section shall include a requirement that the State, in carrying out activities under the State freight plan—

"(1) enhance reliability or redundancy of freight transportation; or

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"(2) incorporate the ability to rapidly restore access and reliability with respect to freight transportation.

"(h) APPROVAL.—

"(1) IN GENERAL.—The Secretary of Transportation shall approve a State freight plan described in subsection (a) if the plan achieves compliance with the requirements of this section.

"(2) SAVINGS PROVISION.—Nothing in this subsection establishes new procedural requirements for the approval of a State freight plan described in subsection (a).".

(b) STUDIES.—For the purpose of facilitating the integration of intelligent transportation systems into the freight transportation network powered by electricity, the Secretary, acting through the Assistant Secretary for Multimodal Freight, shall conduct a study relating to—

(1) preparing to supply power to applicable electrical freight infrastructure; and

(2) safely integrating freight into intelligent transportation systems.

(c) ALIGNMENT OF TRANSPORTATION PLANNING.—Section 70202 of title 49, United States Code, is amended—

(1) in subsection (d), by striking "5-year" and inserting "8-year"; and

(2) in subsection (e)(1), by striking "5 years" and inserting "4 years".

SEC. 21105. IMPLEMENTATION OF NATIONAL MULTIMODAL FREIGHT NETWORK.

Not later than 30 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that—

(1) describes the status of the designation of the final National Multimodal Freight Network required under section 70103 of title 49, United States Code;

(2) explains the reasons why the designation of the network referred to in paragraph (1) has not been finalized, if applicable; and

(3) estimates the date by which that network will be designated.

SEC. 21106. MULTI-STATE FREIGHT CORRIDOR PLANNING.

(a) IN GENERAL.—Chapter 702 of title 49, United States Code, is amended—

(1) by redesignating section 70204 as section 70206; and

(2) by inserting after section 70203 the following:

"§ 70204. Multi-State freight corridor planning

"(a) CONSENT TO MULTI-STATE FREIGHT MOBILITY COMPACTS.—Congress recognizes the right of States, cities, regional planning organizations, federally recognized Indian Tribes, and local public authorities (including public port authorities) that are regionally linked with an interest in a specific nationally or regionally significant multi-State freight corridor to enter into multi-State compacts to promote the improved mobility of goods, including—

"(1) identifying projects along the corridor that benefit multiple States;

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"(2) assembling rights-of-way; and

"(3) performing capital improvements.

"(b) FINANCING.—A multi-State freight compact established by entities under subsection (a) may provide that, in order to carry out the compact, the relevant States or other entities may—

"(1) accept contributions from a unit of State or local government;

"(2) use any Federal or State funds made available for freight mobility infrastructure planning or construction, including applying for grants;

"(3) subject to such terms and conditions as the States consider to be advisable—

"(A) borrow money on a short-term basis; and

"(B) issue—

"(i) notes for borrowing under subparagraph (A); and

"(ii) bonds; and

"(4) obtain financing by other means permitted under applicable Federal or State law.

"(c) ADVISORY COMMITTEES.—

"(1) IN GENERAL.—A multi-State freight compact under this section may establish a multi-State freight corridor advisory committee, which shall include representatives of State departments of transportation and other public and private sector entities with an interest in freight mobility, such as—

"(A) ports;

"(B) freight railroads;

"(C) shippers;

"(D) carriers;

"(E) freight-related associations;

"(F) third-party logistics providers;

"(G) the freight industry workforce;

"(H) environmental organizations;

"(I) community organizations; and

"(J) units of local government.

"(2) ACTIVITIES.—An advisory committee established under paragraph (1) may—

"(A) advise the parties to the applicable multi-State freight compact with respect to freight-related priorities, issues, projects, and funding needs that impact multi-State—

"(i) freight mobility; and

"(ii) supply chains;

"(B) serve as a forum for States, Indian Tribes, and other public entities to discuss decisions affecting freight mobility;

"(C) communicate and coordinate multi-State freight priorities with other organizations;

"(D) promote the sharing of information between the private and public sectors with respect to freight issues; and

"(E) provide information for consideration in the development of State freight plans under section 70202.

"(d) GRANTS.—

"(1) ESTABLISHMENT.—The Secretary of Transportation (referred to in this section as the 'Secretary') shall establish a program under which the Secretary shall provide grants

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to multi-State freight compacts, or States seeking to form a multi-State freight compact, that seek to improve a route or corridor that is a part of the National Multimodal Freight Network established under section 70103.

"(2) NEW COMPACTS.—

"(A) IN GENERAL.—To incentivize the establishment of multi-State freight compacts, the Secretary may award a grant for operations costs in an amount of not more than $2,000,000 to—

"(i) a multi-State freight compact established under subsection (a) during the 2-year period beginning on the date of establishment of the multi-State freight compact; or

"(ii) States seeking to form a multi-State freight compact described in that subsection.

"(B) ELIGIBILITY.—

"(i) NEW MULTI-STATE FREIGHT COMPACTS.—A multi-State freight compact shall be eligible for a grant under this paragraph only during the initial 2 years of operation of the compact.

"(ii) STATES SEEKING TO FORM A COMPACT.—States seeking to form a multi-State freight compact shall be eligible for a grant under this paragraph during—

"(I) the 2-year period beginning on the date on which an application for a grant under this paragraph with respect to the proposed compact is submitted to the Secretary; or

"(II) if the compact is formed before the date on which a grant under this paragraph is awarded in accordance with subclause (I), the initial 2 years of operation of the compact.

"(C) REQUIREMENTS.—To be eligible to receive a grant under this paragraph, a multi-State freight compact or the applicable States seeking to form a multi-State freight compact shall—

"(i) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

"(ii) provide a non-Federal match equal to not less than 25 percent of the operating costs of the multi-State freight compact; and

"(iii) commit to establishing a multi-State freight corridor advisory committee under subsection (c)(1) during the initial 2-year period of operation of the compact.

"(3) EXISTING COMPACTS.—

"(A) IN GENERAL.—The Secretary may award a grant to multi-State freight compacts that are not eligible to receive a grant under paragraph (2) for operations costs in an amount of not more than $1,000,000.

"(B) REQUIREMENTS.—To be eligible to receive a grant under this paragraph, a multi-State freight compact shall—

"(i) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

"(ii) provide a non-Federal match of not less than 50 percent of the operating costs of the compact; and

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"(iii) demonstrate that the compact has established a multi-State freight corridor advisory committee under subsection (c)(1).

"(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $5,000,000 for each fiscal year to carry out this subsection.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 702 of title 49, United States Code, is amended by striking the item relating to section 70204 and inserting the following:

"70204. Multi-State freight corridor planning.
"70206. Savings provision.".

SEC. 21107. STATE FREIGHT ADVISORY COMMITTEES.

Section 70201 of title 49, United States Code, is amended—

(1) in subsection (a), by striking "representatives of ports, freight railroads," and all that follows through the period at the end and inserting the following: "representatives of—

"(1) ports, if applicable;
"(2) freight railroads, if applicable;
"(3) shippers;
"(4) carriers;
"(5) freight-related associations;
"(6) third-party logistics providers;
"(7) the freight industry workforce;
"(8) the transportation department of the State;
"(9) metropolitan planning organizations;
"(10) local governments;
"(11) the environmental protection department of the State, if applicable;
"(12) the air resources board of the State, if applicable;
"(13) economic development agencies of the State; and
"(14) not-for-profit organizations or community organizations.";

(2) in subsection (b)(5), by striking "70202." and inserting "70202, including by providing advice regarding the development of the freight investment plan.";

(3) by redesignating subsection (b) as subsection (c); and

(4) by inserting after subsection (a) the following:

"(b) QUALIFICATIONS.—Each member of a freight advisory committee established under subsection (a) shall have qualifications sufficient to serve on a freight advisory committee, including, as applicable—

"(1) general business and financial experience;
"(2) experience or qualifications in the areas of freight transportation and logistics;
"(3) experience in transportation planning;
"(4) experience representing employees of the freight industry;
"(5) experience representing a State, local government, or metropolitan planning organization; or
"(6) experience representing the views of a community group or not-for-profit organization.".

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Subtitle B—Multimodal Investment

SEC. 21201. NATIONAL INFRASTRUCTURE PROJECT ASSISTANCE.

Subtitle III of title 49, United States Code, is amended by adding at the end the following:

"CHAPTER 67—MULTIMODAL INFRASTRUCTURE INVESTMENTS

"6701. National infrastructure project assistance.
"6702. Local and regional project assistance.

"§ 6701. National infrastructure project assistance

"(a) DEFINITIONS.—In this section:

"(1) DEPARTMENT.—The term 'Department' means the Department of Transportation.

"(2) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(A) a State or a group of States;

"(B) a metropolitan planning organization;

"(C) a unit of local government;

"(D) a political subdivision of a State;

"(E) a special purpose district or public authority with a transportation function, including a port authority;

"(F) a Tribal government or a consortium of Tribal governments;

"(G) a partnership between Amtrak and 1 or more entities described in subparagraphs (A) through (F); and

"(H) a group of entities described in any of subparagraphs (A) through (G).

"(3) PROGRAM.—The term 'program' means the program established by subsection (b).

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(5) STATE.—The term 'State' means—

"(A) any of the several States;

"(B) the District of Columbia;

"(C) the Commonwealth of Puerto Rico;

"(D) the Commonwealth of the Northern Mariana Islands;

"(E) the United States Virgin Islands;

"(F) Guam;

"(G) American Samoa; and

"(H) any other territory or possession of the United States.

"(b) ESTABLISHMENT.—There is established a program under which the Secretary shall provide to eligible entities grants, on a competitive basis pursuant to single-year or multiyear grant agreements, for projects described in subsection (d).

"(c) APPLICATIONS.—

"(1) IN GENERAL.—To be eligible for a grant under the program, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary determines to be appropriate.

"(2) PLAN FOR DATA COLLECTION.—An application under paragraph (1) shall include a plan for data collection and analysis described in subsection (g).

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"(d) ELIGIBLE PROJECTS.—The Secretary may provide a grant under the program only for a project—

"(1) that is—

"(A) a highway or bridge project carried out on—

"(i) the National Multimodal Freight Network established under section 70103;

"(ii) the National Highway Freight Network established under section 167 of title 23; or

"(iii) the National Highway System (as defined in section 101(a) of title 23);

"(B) a freight intermodal (including public ports) or freight rail project that provides a public benefit;

"(C) a railway-highway grade separation or elimination project;

"(D) an intercity passenger rail project;

"(E) a public transportation project that is—

"(i) eligible for assistance under chapter 53; and

"(ii) part of a project described in any of subparagraphs (A) through (D); or

"(F) a grouping, combination, or program of interrelated, connected, or dependent projects of any of the projects described in subparagraphs (A) through (E); and

"(2) the eligible project costs of which are—

"(A) reasonably anticipated to equal or exceed $500,000,000; or

"(B) for any project funded by the set-aside under subsection (m)(2)—

"(i) more than $100,000,000; but

"(ii) less than $500,000,000.

"(e) GEOGRAPHICAL DISTRIBUTION.—In providing grants under this section, the Secretary shall ensure among grant recipients—

"(1) geographical diversity; and

"(2) a balance between rural and urban communities.

"(f) PROJECT EVALUATION AND SELECTION.—

"(1) REQUIREMENTS.—The Secretary may select a project described in subsection (d) to receive a grant under the program only if the Secretary determines that—

"(A) the project is likely to generate national or regional economic, mobility, or safety benefits;

"(B) the project is in need of significant Federal funding;

"(C) the project will be cost-effective;

"(D) with respect to related non-Federal financial commitments, 1 or more stable and dependable sources of funding and financing are available—

"(i) to construct, operate, and maintain the project; and

"(ii) to cover cost increases; and

"(E) the applicant has, or will have, sufficient legal, financial, and technical capacity to carry out the project.

"(2) EVALUATION CRITERIA.—In awarding a grant under the program, the Secretary shall evaluate—

"(A) the extent to which a project supports achieving a state of good repair for each existing asset to be improved by the project;

"(B) the level of benefits a project is expected to generate, including—

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"(i) the costs avoided by the prevention of closure or reduced use of the asset to be improved by the project;

"(ii) reductions in maintenance costs over the life of the applicable asset;

"(iii) safety benefits, including the reduction of serious injuries and fatalities and related costs;

"(iv) improved person or freight throughput, including improved mobility and reliability; and

"(v) environmental benefits and health impacts, such as—

"(I) reductions in greenhouse gas emissions;

"(II) air quality benefits;

"(III) preventing stormwater runoff that would be a detriment to aquatic species; and

"(IV) improved infrastructure resilience;

"(C) the benefits of the project, as compared to the costs of the project;

"(D) the number of persons or volume of freight, as applicable, supported by the project; and

"(E) national and regional economic benefits of the project, including with respect to short- and long-term job access, growth, or creation.

"(3) ADDITIONAL CONSIDERATIONS.—In selecting projects to receive grants under the program, the Secretary shall take into consideration—

"(A) contributions to geographical diversity among grant recipients, including a balance between the needs of rural and urban communities;

"(B) whether multiple States would benefit from a project;

"(C) whether, and the degree to which, a project uses—

"(i) construction materials or approaches that have—

"(I) demonstrated reductions in greenhouse gas emissions; or

"(II) reduced the need for maintenance of other projects; or

"(ii) technologies that will allow for future connectivity and automation;

"(D) whether a project would benefit—

"(i) a historically disadvantaged community or population; or

"(ii) an area of persistent poverty;

"(E) whether a project benefits users of multiple modes of transportation, including—

"(i) pedestrians;

"(ii) bicyclists; and

"(iii) users of nonvehicular rail and public transportation, including intercity and commuter rail; and

"(F) whether a project improves connectivity between modes of transportation moving persons or goods nationally or regionally.

"(4) RATINGS.—

"(A) IN GENERAL.—In evaluating applications for a grant under the program, the Secretary shall assign the project proposed in the application a rating described in

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subparagraph (B), based on the information contained in the applicable notice published under paragraph (5).

"(B) RATINGS.—

"(i) HIGHLY RECOMMENDED.—The Secretary shall assign a rating of 'highly recommended' to projects that, in the determination of the Secretary—

"(I) are exemplary projects of national or regional significance; and

"(II) would provide significant public benefit, as determined based on the applicable criteria described in this subsection, if funded under the program.

"(ii) RECOMMENDED.—The Secretary shall assign a rating of 'recommended' to projects that, in the determination of the Secretary—

"(I) are of national or regional significance; and

"(II) would provide public benefit, as determined based on the applicable criteria described in this subsection, if funded under the program.

"(iii) NOT RECOMMENDED.—The Secretary shall assign a rating of 'not recommended' to projects that, in the determination of the Secretary, should not receive a grant under the program, based on the applicable criteria described in this subsection.

"(C) TECHNICAL ASSISTANCE.—

"(i) IN GENERAL.—On request of an eligible entity that submitted an application under subsection (c) for a project that is not selected to receive a grant under the program, the Secretary shall provide to the eligible entity technical assistance and briefings relating to the project.

"(ii) TREATMENT.—Technical assistance provided under this subparagraph shall not be considered a guarantee of future selection of the applicable project under the program.

"(5) PUBLICATION OF PROJECT EVALUATION AND SELECTION CRITERIA.—Not later than 90 days after the date of enactment of this chapter, the Secretary shall publish and make publicly available on the website of the Department a notice that contains a detailed explanation of—

"(A) the method by which the Secretary will determine whether a project satisfies the applicable requirements described in paragraph (1);

"(B) any additional ratings the Secretary may assign to determine the means by which a project addresses the selection criteria and additional considerations described in paragraphs (2) and (3); and

"(C) the means by which the project requirements and ratings referred to in subparagraphs (A) and (B) will be used to assign an overall rating for the project under paragraph (4).

"(6) PROJECT SELECTION PRIORITY.—In awarding grants under the program, the Secretary shall give priority to projects to which the Secretary has assigned a rating of 'highly recommended' under paragraph (4)(B)(i).

"(g) DATA COLLECTION AND ANALYSIS.—

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"(1) PLAN.—

"(A) IN GENERAL.—An eligible entity seeking a grant under the program shall submit to the Secretary, together with the grant application, a plan for the collection and analysis of data to identify in accordance with the framework established under paragraph (2)—

"(i) the impacts of the project; and

"(ii) the accuracy of any forecast prepared during the development phase of the project and included in the grant application.

"(B) CONTENTS.—A plan under subparagraph (A) shall include—

"(i) an approach to measuring—

"(I) the criteria described in subsection (f)(2); and

"(II) if applicable, the additional requirements described in subsection (f)(3);

"(ii) an approach for analyzing the consistency of predicted project characteristics with actual outcomes; and

"(iii) any other elements that the Secretary determines to be necessary.

"(2) FRAMEWORK.—The Secretary may publish a standardized framework for the contents of the plans under paragraph (1), which may include, as appropriate—

"(A) standardized forecasting and measurement approaches;

"(B) data storage system requirements; and

"(C) any other requirements the Secretary determines to be necessary to carry out this section.

"(3) MULTIYEAR GRANT AGREEMENTS.—The Secretary shall require an eligible entity, as a condition of receiving funding pursuant to a multiyear grant agreement under the program, to collect additional data to measure the impacts of the project and to accurately track improvements made by the project, in accordance with a plan described in paragraph (1).

"(4) REPORTS.—

"(A) PROJECT BASELINE.—Before the date of completion of a project for which a grant is provided under the program, the eligible entity carrying out the project shall submit to the Secretary a report providing baseline data for the purpose of analyzing the long-term impact of the project in accordance with the framework established under paragraph (2).

"(B) UPDATED REPORT.—Not later than 6 years after the date of completion of a project for which a grant is provided under the program, the eligible entity carrying out the project shall submit to the Secretary a report that compares the baseline data included in the report under subparagraph (A) to project data collected during the period—

"(i) beginning on the date that is 5 years after the date of completion of the project; and

"(ii) ending on the date on which the updated report is submitted.

"(h) ELIGIBLE PROJECT COSTS.—

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"(1) IN GENERAL.—An eligible entity may use a grant provided under the program for—

"(A) development-phase activities and costs, including planning, feasibility analysis, revenue forecasting, alternatives analysis, data collection and analysis, environmental review and activities to support environmental review, preliminary engineering and design work, and other preconstruction activities, including the preparation of a data collection and post-construction analysis plan under subsection (g); and

"(B) construction, reconstruction, rehabilitation, acquisition of real property (including land relating to the project and improvements to that land), environmental mitigation (including projects to replace or rehabilitate culverts or reduce stormwater runoff for the purpose of improving habitat for aquatic species), construction contingencies, acquisition of equipment, protection, and operational improvements directly relating to the project.

"(2) INTEREST AND OTHER FINANCING COSTS.—The interest and other financing costs of carrying out any part of a project under a multiyear grant agreement within a reasonable period of time shall be considered to be an eligible project cost only if the applicable eligible entity certifies to the Secretary that the eligible entity has demonstrated reasonable diligence in seeking the most favorable financing terms.

"(i) COST SHARING.—

"(1) IN GENERAL.—The total amount awarded for a project under the program may not exceed 60 percent of the total eligible project costs described in subsection (h).

"(2) MAXIMUM FEDERAL INVOLVEMENT.—

"(A) IN GENERAL.—Subject to subparagraph (B), Federal assistance other than a grant awarded under the program may be provided for a project for which a grant is awarded under the program.

"(B) LIMITATION.—The total amount of Federal assistance provided for a project for which a grant is awarded under the program shall not exceed 80 percent of the total cost of the project.

"(C) NON-FEDERAL SHARE.—Secured loans or financing provided under section 603 of title 23 or section 22402 of this title and repaid with local funds or revenues shall be considered to be part of the local share of the cost of a project.

"(3) APPLICATION TO MULTIYEAR AGREEMENTS.—Notwithstanding any other provision of this title, in any case in which amounts are provided under the program pursuant to a multiyear agreement, the disbursed Federal share of the cost of the project may exceed the limitations described in paragraphs (1) and (2)(B) for 1 or more years if the total amount of the Federal share of the cost of the project, once completed, does not exceed those limitations.

"(j) GRANT AGREEMENTS.—

"(1) IN GENERAL.—A project for which an eligible entity receives a multiyear grant under the program shall be carried out in accordance with this subsection.

"(2) TERMS.—A multiyear grant agreement under this subsection shall—

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"(A) establish the terms of Federal participation in the applicable project;

"(B) establish the maximum amount of Federal financial assistance for the project;

"(C) establish a schedule of anticipated Federal obligations for the project that provides for obligation of the full grant amount;

"(D) describe the period of time for completing the project, regardless of whether that period extends beyond the period of an authorization; and

"(E) facilitate timely and efficient management of the applicable project by the eligible entity carrying out the project, in accordance with applicable law.

"(3) SPECIAL RULES.—

"(A) IN GENERAL.—A multiyear grant agreement under this subsection—

"(i) shall provide for the obligation of an amount of available budget authority specified in law;

"(ii) may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law; and

"(iii) shall provide that any funds disbursed under the program for the project before the completion of any review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) may only cover costs associated with development-phase activities described in subsection (h)(1)(A).

"(B) CONTINGENT COMMITMENT.—A contingent commitment under this paragraph is not an obligation of the Federal Government, including for purposes of section 1501 of title 31.

"(4) SINGLE-YEAR GRANTS.—The Secretary may only provide to an eligible entity a full grant under the program in a single year if all reviews required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the applicable project have been completed before the receipt of any program funds.

"(k) CONGRESSIONAL NOTIFICATION.—

"(1) IN GENERAL.—Not later than 30 days before the date on which the Secretary publishes the selection of projects to receive grants under the program, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a written notice that includes—

"(A) a list of all project applications reviewed by the Secretary as part of the selection process;

"(B) the rating assigned to each project under subsection (f)(4);

"(C) an evaluation and justification with respect to each project for which the Secretary will—

"(i) provide a grant under the program; and

"(ii) enter into a multiyear grant agreement under the program;

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"(D) a description of the means by which the Secretary anticipates allocating among selected projects the amounts made available to the Secretary to carry out the program; and

"(E) anticipated funding levels required for the 3 fiscal years beginning after the date of submission of the notice for projects selected for grants under the program, based on information available to the Secretary as of that date.

"(2) CONGRESSIONAL DISAPPROVAL.—The Secretary may not provide a grant or any other obligation or commitment to fund a project under the program if a joint resolution is enacted disapproving funding for the project before the last day of the 30-day period described in paragraph (1).

"(l) REPORTS.—

"(1) TRANSPARENCY.—Not later than 60 days after the date on which the grants are announced under the program, the Secretary shall publish on the website of the Department a report that includes—

"(A) a list of all project applications reviewed by the Secretary as part of the selection process under the program;

"(B) the rating assigned to each project under subsection (f)(4); and

"(C) a description of each project for which a grant has been provided under the program.

"(2) COMPTROLLER GENERAL.—

"(A) ASSESSMENT.—The Comptroller General of the United States shall conduct an assessment of the administrative establishment, solicitation, selection, and justification process with respect to the funding of grants under the program.

"(B) REPORT.—Not later than 18 months after the date on which the initial grants are awarded for projects under the program, the Comptroller General shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes, as applicable—

"(i) the adequacy and fairness of the process by which the projects were selected; and

"(ii) the justification and criteria used for the selection of the projects.

"(m) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to the Secretary to carry out the program $2,000,000,000 for each of fiscal years 2022 through 2026.

"(2) OTHER PROJECTS.—Of the amounts made available under paragraph (1), 50 percent shall be set aside for projects that have a project cost of—

"(A) more than $100,000,000; but

"(B) less than $500,000,000.

"(3) ADMINISTRATIVE EXPENSES.—Of the amounts made available to carry out the program for each fiscal year, the Secretary may reserve not more than 2 percent for the costs of—

"(A) administering and overseeing the program; and

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"(B) hiring personnel for the program, including personnel dedicated to processing permitting and environmental review issues.

"(4) TRANSFER OF AUTHORITY.—The Secretary may transfer any portion of the amounts reserved under paragraph (3) for a fiscal year to the Administrator of any of the Federal Highway Administration, the Federal Transit Administration, the Federal Railroad Administration, or the Maritime Administration to award and oversee grants in accordance with this section.

"(n) ADDITIONAL REQUIREMENTS.—

"(1) IN GENERAL.—Each project that receives a grant under this chapter shall achieve compliance with the applicable requirements of—

"(A) subchapter IV of chapter 31 of title 40;

"(B) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); and

"(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(2) MODAL REQUIREMENTS.—The Secretary shall, with respect to a project funded by a grant under this section, apply—

"(A) the requirements of title 23 to a highway, road, or bridge project;

"(B) the requirements of chapter 53 to a transit project; and

"(C) the requirements of section 22905 to a rail project.

"(3) MULTIMODAL PROJECTS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, if an eligible project is a multimodal project, the Secretary shall—

"(i) determine the predominant modal component of the project; and

"(ii) apply the applicable requirements described in paragraph (2) of the predominant modal component to the project.

"(B) EXCEPTIONS.—

"(i) PASSENGER OR FREIGHT RAIL COMPONENT.—The requirements of section 22905 shall apply to any passenger or freight rail component of a project.

"(ii) PUBLIC TRANSPORTATION COMPONENT.—The requirements of section 5333 shall apply to any public transportation component of a project.".

SEC. 21202. LOCAL AND REGIONAL PROJECT ASSISTANCE.

(a) IN GENERAL.—Chapter 67 of subtitle III of title 49, United States Code (as added by section 21201), is amended by adding at the end the following:

"§ 6702. Local and regional project assistance

"(a) DEFINITIONS.—In this section:

"(1) AREA OF PERSISTENT POVERTY.—The term 'area of persistent poverty' means—

"(A) any county (or equivalent jurisdiction) in which, during the 30-year period ending on the date of enactment of this chapter, 20 percent or more of the population continually lived in poverty, as measured by—

"(i) the 1990 decennial census;

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"(ii) the 2000 decennial census; and

"(iii) the most recent annual small area income and poverty estimate of the Bureau of the Census;

"(B) any census tract with a poverty rate of not less than 20 percent, as measured by the 5-year data series available from the American Community Survey of the Bureau of the Census for the period of 2014 through 2018; and

"(C) any territory or possession of the United States.

"(2) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(A) a State;

"(B) the District of Columbia;

"(C) any territory or possession of the United States;

"(D) a unit of local government;

"(E) a public agency or publicly chartered authority established by 1 or more States;

"(F) a special purpose district or public authority with a transportation function, including a port authority;

"(G) a federally recognized Indian Tribe or a consortium of such Indian Tribes;

"(H) a transit agency; and

"(I) a multi-State or multijurisdictional group of entities described in any of subparagraphs (A) through (H).

"(3) ELIGIBLE PROJECT.—The term 'eligible project' means—

"(A) a highway or bridge project eligible for assistance under title 23;

"(B) a public transportation project eligible for assistance under chapter 53;

"(C) a passenger rail or freight rail transportation project eligible for assistance under this title;

"(D) a port infrastructure investment, including—

"(i) inland port infrastructure; and

"(ii) a land port-of-entry;

"(E) the surface transportation components of an airport project eligible for assistance under part B of subtitle VII;

"(F) a project for investment in a surface transportation facility located on Tribal land, the title or maintenance responsibility of which is vested in the Federal Government;

"(G) a project to replace or rehabilitate a culvert or prevent stormwater runoff for the purpose of improving habitat for aquatic species that will advance the goal of the program described in subsection (b)(2); and

"(H) any other surface transportation infrastructure project that the Secretary considers to be necessary to advance the goal of the program.

"(4) PROGRAM.—The term 'program' means the Local and Regional Project Assistance Program established under subsection (b)(1).

"(5) RURAL AREA.—The term 'rural area' means an area that is located outside of an urbanized area.

"(6) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(7) URBANIZED AREA.—The term 'urbanized area' means an area with a population of more than 200,000 residents, based on the most recent decennial census.

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"(b) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall establish and carry out a program, to be known as the 'Local and Regional Project Assistance Program', to provide for capital investments in surface transportation infrastructure.

"(2) GOAL.—The goal of the program shall be to fund eligible projects that will have a significant local or regional impact and improve transportation infrastructure.

"(c) GRANTS.—

"(1) IN GENERAL.—In carrying out the program, the Secretary may make grants to eligible entities, on a competitive basis, in accordance with this section.

"(2) AMOUNT.—Except as otherwise provided in this section, each grant made under the program shall be in an amount equal to—

"(A) not less than $5,000,000 for an urbanized area;

"(B) not less than $1,000,000 for a rural area; and

"(C) not more than $25,000,000.

"(3) LIMITATION.—Not more than 15 percent of the funds made available to carry out the program for a fiscal year may be awarded to eligible projects in a single State during that fiscal year.

"(d) SELECTION OF ELIGIBLE PROJECTS.—

"(1) NOTICE OF FUNDING OPPORTUNITY.—Not later than 60 days after the date on which funds are made available to carry out the program, the Secretary shall publish a notice of funding opportunity for the funds.

"(2) APPLICATIONS.—To be eligible to receive a grant under the program, an eligible entity shall submit to the Secretary an application—

"(A) in such form and containing such information as the Secretary considers to be appropriate; and

"(B) by such date as the Secretary may establish, subject to the condition that the date shall be not later than 90 days after the date on which the Secretary issues the solicitation under paragraph (1).

"(3) PRIMARY SELECTION CRITERIA.—In awarding grants under the program, the Secretary shall evaluate the extent to which a project—

"(A) improves safety;

"(B) improves environmental sustainability;

"(C) improves the quality of life of rural areas or urbanized areas;

"(D) increases economic competitiveness and opportunity, including increasing tourism opportunities;

"(E) contributes to a state of good repair; and

"(F) improves mobility and community connectivity.

"(4) ADDITIONAL SELECTION CRITERIA.—In selecting projects to receive grants under the program, the Secretary shall take into consideration the extent to which—

"(A) the project sponsors collaborated with other public and private entities;

"(B) the project adopts innovative technologies or techniques, including—

"(i) innovative technology;

"(ii) innovative project delivery techniques; and

"(iii) innovative project financing;

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"(C) the project has demonstrated readiness; and

"(D) the project is cost effective.

"(5) TRANSPARENCY.—

"(A) IN GENERAL.—The Secretary, shall evaluate, through a methodology that is discernible and transparent to the public, the means by which each application submitted under paragraph (2) addresses the criteria under paragraphs (3) and (4) or otherwise established by the Secretary.

"(B) PUBLICATION.—The methodology under subparagraph (A) shall be published by the Secretary as part of the notice of funding opportunity under the program.

"(6) AWARDS.—Not later than 270 days after the date on which amounts are made available to provide grants under the program for a fiscal year, the Secretary shall announce the selection by the Secretary of eligible projects to receive the grants in accordance with this section.

"(7) TECHNICAL ASSISTANCE.—

"(A) IN GENERAL.—On request of an eligible entity that submitted an application under paragraph (2) for a project that is not selected to receive a grant under the program, the Secretary shall provide to the eligible entity technical assistance and briefings relating to the project.

"(B) TREATMENT.—Technical assistance provided under this paragraph shall not be considered a guarantee of future selection of the applicable project under the program.

"(e) FEDERAL SHARE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Federal share of the cost of an eligible project carried out using a grant provided under the program shall not exceed 80 percent.

"(2) EXCEPTION.—The Federal share of the cost of an eligible project carried out in a rural area, a historically disadvantaged community, or an area of persistent poverty using a grant under this subsection may exceed 80 percent, at the discretion of the Secretary.

"(3) TREATMENT OF OTHER FEDERAL FUNDS.—Amounts provided under any of the following programs shall be considered to be a part of the non-Federal share for purposes of this subsection:

"(A) The tribal transportation program under section 202 of title 23.

"(B) The Federal lands transportation program under section 203 of title 23.

"(C) The TIFIA program (as defined in section 601(a) of title 23).

"(D) The Railroad Rehabilitation and Improvement Financing Program under chapter 224.

"(f) OTHER CONSIDERATIONS.—

"(1) IN GENERAL.—Of the total amount made available to carry out the program for each fiscal year—

"(A) not more than 50 percent shall be allocated for eligible projects located in rural areas; and

"(B) not more than 50 percent shall be allocated for eligible projects located in urbanized areas.

"(2) HISTORICALLY DISADVANTAGED COMMUNITIES AND AREAS OF PERSISTENT POVERTY.—Of the total amount made

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available to carry out the program for each fiscal year, not less than 1 percent shall be awarded for projects in historically disadvantaged communities or areas of persistent poverty.

"(3) MULTIMODAL AND GEOGRAPHICAL CONSIDERATIONS.—In selecting projects to receive grants under the program, the Secretary shall take into consideration geographical and modal diversity.

"(g) PROJECT PLANNING.—Of the amounts made available to carry out the program for each fiscal year, not less than 5 percent shall be made available for the planning, preparation, or design of eligible projects.

"(h) TRANSFER OF AUTHORITY.—Of the amounts made available to carry out the program for each fiscal year, the Secretary may transfer not more than 2 percent for a fiscal year to the Administrator of any of the Federal Highway Administration, the Federal Transit Administration, the Federal Railroad Administration, or the Maritime Administration to award and oversee grants and credit assistance in accordance with this section.

"(i) CREDIT PROGRAM COSTS.—

"(1) IN GENERAL.—Subject to paragraph (2), at the request of an eligible entity, the Secretary may use a grant provided to the eligible entity under the program to pay the subsidy or credit risk premium, and the administrative costs, of an eligible project that is eligible for Federal credit assistance under—

"(A) chapter 224; or

"(B) chapter 6 of title 23.

"(2) LIMITATION.—Not more than 20 percent of the funds made available to carry out the program for a fiscal year may be used to carry out paragraph (1).

"(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000,000 for each of fiscal years 2022 through 2026, to remain available for a period of 3 fiscal years following the fiscal year for which the amounts are appropriated.

"(k) REPORTS.—

"(1) ANNUAL REPORT.—The Secretary shall make available on the website of the Department of Transportation at the end of each fiscal year an annual report that describes each eligible project for which a grant was provided under the program during that fiscal year.

"(2) COMPTROLLER GENERAL.—Not later than 1 year after the date on which the initial grants are awarded for eligible projects under the program, the Comptroller General of the United States shall—

"(A) review the administration of the program, including—

"(i) the solicitation process; and

"(ii) the selection process, including—

"(I) the adequacy and fairness of the process; and

"(II) the selection criteria; and

"(B) submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing the findings of the review

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under subparagraph (A), including recommendations for improving the administration of the program, if any.".

(b) STUDY.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall conduct, and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing the results of, a study of how changes to Federal share matching requirements and selection criteria, such as using State population data in Department discretionary programs, may impact the allocations made to States.

(c) CLERICAL AMENDMENT.—The analysis for subtitle III of title 49, United States Code, is amended by adding at the end the following:

"CHAPTER 67—MULTIMODAL INFRASTRUCTURE INVESTMENTS

"6701. National infrastructure project assistance.
"6702. Local and regional project assistance.".

SEC. 21203. NATIONAL CULVERT REMOVAL, REPLACEMENT, AND RESTORATION GRANT PROGRAM.

(a) IN GENERAL.—Chapter 67 of title 49, United States Code (as amended by section 21202(a)), is amended by adding at the end the following:

"§ 6703. National culvert removal, replacement, and restoration grant program

"(a) DEFINITIONS.—In this section:

"(1) DIRECTOR.—The term 'Director' means the Director of the United States Fish and Wildlife Service.

"(2) INDIAN TRIBE.—The term 'Indian Tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

"(3) PROGRAM.—The term 'program' means the annual competitive grant program established under subsection (b).

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(5) UNDERSECRETARY.—The term 'Undersecretary' means the Undersecretary of Commerce for Oceans and Atmosphere.

"(b) ESTABLISHMENT.—The Secretary, in consultation with the Undersecretary, shall establish an annual competitive grant program to award grants to eligible entities for projects for the replacement, removal, and repair of culverts or weirs that—

"(1) would meaningfully improve or restore fish passage for anadromous fish; and

"(2) with respect to weirs, may include—

"(A) infrastructure to facilitate fish passage around or over the weir; and

"(B) weir improvements.

"(c) ELIGIBLE ENTITIES.—An entity eligible to receive a grant under the program is—

"(1) a State;

"(2) a unit of local government; or

"(3) an Indian Tribe.

"(d) GRANT SELECTION PROCESS.—The Secretary, in consultation with the Undersecretary and the Director, shall establish a process for determining criteria for awarding grants under the program, subject to subsection (e).

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"(e) PRIORITIZATION.—The Secretary, in consultation with the Undersecretary and the Director, shall establish procedures to prioritize awarding grants under the program to—

"(1) projects that would improve fish passage for—

"(A) anadromous fish stocks listed as an endangered species or a threatened species under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533);

"(B) anadromous fish stocks identified by the Undersecretary or the Director that could reasonably become listed as an endangered species or a threatened species under that section;

"(C) anadromous fish stocks identified by the Undersecretary or the Director as prey for endangered species, threatened species, or protected species, including Southern resident orcas (Orcinus orcas); or

"(D) anadromous fish stocks identified by the Undersecretary or the Director as climate resilient stocks; and

"(2) projects that would open up more than 200 meters of upstream habitat before the end of the natural habitat.

"(f) FEDERAL SHARE.—The Federal share of the cost of a project carried out with a grant to a State or a unit of local government under the program shall be not more than 80 percent.

"(g) TECHNICAL ASSISTANCE.—The Secretary, in consultation with the Undersecretary and the Director, shall develop a process to provide technical assistance to Indian Tribes and underserved communities to assist in the project design and grant process and procedures.

"(h) ADMINISTRATIVE EXPENSES.—Of the amounts made available for each fiscal year to carry out the program, the Secretary, the Undersecretary, and the Director may use not more than 2 percent to pay the administrative expenses necessary to carry out this section.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the program $800,000,000 for each of fiscal years 2022 through 2026.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 67 of title 49, United States Code (as added by section 21202(c)), is amended by adding at the end the following:

"6703. National culvert removal, replacement, and restoration grant program.".

SEC. 21204. NATIONAL MULTIMODAL COOPERATIVE FREIGHT RESEARCH PROGRAM.

(a) IN GENERAL.—Chapter 702 of title 49, United States Code (as amended by section 21106(a)), is amended by inserting after section 70204 the following:

"§ 70205. National multimodal cooperative freight research program

"(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this section, the Secretary of Transportation (referred to in this section as the 'Secretary') shall establish and support a national cooperative freight transportation research program.

"(b) ADMINISTRATION BY NATIONAL ACADEMY OF SCIENCES.—

"(1) IN GENERAL.—The Secretary shall enter into an agreement with the National Academy of Sciences to support and

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carry out administrative and management activities under the program established under subsection (a).

"(2) ADVISORY COMMITTEE.—To assist the National Academy of Sciences in carrying out this subsection, the National Academy shall establish an advisory committee, the members of which represent a cross-section of multimodal freight stakeholders, including—

"(A) the Department of Transportation and other relevant Federal departments and agencies;

"(B) State (including the District of Columbia) departments of transportation;

"(C) units of local government, including public port authorities;

"(D) nonprofit entities;

"(E) institutions of higher education;

"(F) labor organizations representing employees in freight industries; and

"(G) private sector entities representing various transportation modes.

"(c) ACTIVITIES.—

"(1) NATIONAL RESEARCH AGENDA.—

"(A) IN GENERAL.—The advisory committee established under subsection (b)(2), in consultation with interested parties, shall recommend a national research agenda for the program in accordance with subsection (d), which shall include a multiyear strategic plan.

"(B) ACTION BY INTERESTED PARTIES.—For purposes of subparagraph (A), an interested party may—

"(i) submit to the advisory committee research proposals;

"(ii) participate in merit reviews of research proposals and peer reviews of research products; and

"(iii) receive research results.

"(2) RESEARCH CONTRACTS AND GRANTS.—

"(A) IN GENERAL.—The National Academy of Sciences may award research contracts and grants under the program established under subsection (a) through—

"(i) open competition; and

"(ii) merit review, conducted on a regular basis.

"(B) EVALUATION.—

"(i) PEER REVIEW.—A contract or grant for research under subparagraph (A) may allow peer review of the research results.

"(ii) PROGRAMMATIC EVALUATIONS.—The National Academy of Sciences may conduct periodic programmatic evaluations on a regular basis of a contract or grant for research under subparagraph (A).

"(C) DISSEMINATION OF FINDINGS.—The National Academy of Sciences shall disseminate the findings of any research conducted under this paragraph to relevant researchers, practitioners, and decisionmakers through—

"(i) conferences and seminars;

"(ii) field demonstrations;

"(iii) workshops;

"(iv) training programs;

"(v) presentations;

"(vi) testimony to government officials;

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"(vii) publicly accessible websites;
"(viii) publications for the general public; and
"(ix) other appropriate means.

"(3) REPORT.—Not later than 1 year after the date of establishment of the program under subsection (a), and annually thereafter, the Secretary shall make available on a public website a report that describes the ongoing research and findings under the program.

"(d) AREAS FOR RESEARCH.—The national research agenda under subsection (c)(1) shall consider research in the following areas:

"(1) Improving the efficiency and resiliency of freight movement, including—
"(A) improving the connections between rural areas and domestic and foreign markets;
"(B) maximizing infrastructure utility, including improving urban curb-use efficiency;
"(C) quantifying the national impact of blocked railroad crossings;
"(D) improved techniques for estimating and quantifying public benefits derived from freight transportation projects; and
"(E) low-cost methods to reduce congestion at bottlenecks.
"(2) Adapting to future trends in freight, including—
"(A) considering the impacts of e-commerce;
"(B) automation; and
"(C) zero-emissions transportation.
"(3) Workforce considerations in freight, including—
"(A) diversifying the freight transportation industry workforce; and
"(B) creating and transitioning a workforce capable of designing, deploying, and operating emerging technologies.

"(e) FEDERAL SHARE.—
"(1) IN GENERAL.—The Federal share of the cost of an activity carried out under this section shall be up to 100 percent.
"(2) USE OF NON-FEDERAL FUNDS.—In addition to using funds made available to carry out this section, the National Academy of Sciences may seek and accept additional funding from public and private entities capable of accepting funding from the Department of Transportation, States, units of local government, nonprofit entities, and the private sector.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $3,750,000 for each fiscal year to carry out the program established under subsection (a), to remain available until expended.

"(g) SUNSET.—The program established under subsection (a) shall terminate 5 years after the date of enactment of this section.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 702 of title 49, United States Code (as amended by section 21106(b)), is amended by inserting after the item relating to section 70204 the following:

"70205. National multimodal cooperative freight research program.".

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SEC. 21205. RURAL AND TRIBAL INFRASTRUCTURE ADVANCEMENT.

(a) DEFINITIONS.—In this section:

(1) BUILD AMERICA BUREAU.—The term "Build America Bureau" means the National Surface Transportation and Innovative Finance Bureau established under section 116 of title 49, United States Code.

(2) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a unit of local government or political subdivision that is located outside of an urbanized area with a population of more than 150,000 residents, as determined by the Bureau of the Census;

(B) a State seeking to advance a project located in an area described in subparagraph (A);

(C) a federally recognized Indian Tribe; and

(D) the Department of Hawaiian Home Lands.

(3) ELIGIBLE PROGRAM.—The term "eligible program" means any program described in—

(A) subparagraph (A) or (B) of section 116(d)(1) of title 49, United States Code;

(B) section 118(d)(3)(A) of that title (as added by section 21101(a)); or

(C) chapter 67 of that title (as added by section 21201).

(4) PILOT PROGRAM.—The term "pilot program" means the Rural and Tribal Assistance Pilot Program established under subsection (b)(1).

(b) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish within the Build America Bureau a pilot program, to be known as the "Rural and Tribal Assistance Pilot Program", to provide to eligible entities the assistance and information described in paragraph (2).

(2) ASSISTANCE AND INFORMATION.—In carrying out the pilot program, the Secretary may provide to an eligible entity the following:

(A) Financial, technical, and legal assistance to evaluate potential projects reasonably expected to be eligible to receive funding or financing assistance under an eligible program.

(B) Assistance with development-phase activities, including—

(i) project planning;

(ii) feasibility studies;

(iii) revenue forecasting and funding and financing options analyses;

(iv) environmental review;

(v) preliminary engineering and design work;

(vi) economic assessments and cost-benefit analyses;

(vii) public benefit studies;

(viii) statutory and regulatory framework analyses;

(ix) value for money studies;

(x) evaluations of costs to sustain the project;

(xi) evaluating opportunities for private financing and project bundling; and

(xii) any other activity determined to be appropriate by the Secretary.

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(C) Information regarding innovative financing best practices and case studies, if the eligible entity is interested in using innovative financing methods.

(c) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms, including counsel, in the field of municipal and project finance to assist in providing financial, technical, and legal assistance to eligible entities under the pilot program.

(d) WEBSITE.—

(1) DESCRIPTION OF PILOT PROGRAM.—

(A) IN GENERAL.—The Secretary shall make publicly available on the website of the Department a description of the pilot program, including—

(i) the resources available to eligible entities under the pilot program; and

(ii) the application process established under paragraph (2)(A).

(B) CLEARINGHOUSE.—The Secretary may establish a clearinghouse for tools, templates, and best practices on the page of the website of the Department that contains the information described in subparagraph (A).

(2) APPLICATIONS.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish a process by which an eligible entity may submit to the Secretary an application under the pilot program, in such form and containing such information as the Secretary may require.

(B) ONLINE PORTAL.—The Secretary shall develop and make available to the public an online portal through which the Secretary may receive applications under subparagraph (A), on a rolling basis.

(C) APPROVAL.—

(i) IN GENERAL.—Not later than 60 days after the date on which the Secretary receives a complete application under subparagraph (A), the Secretary shall provide to each eligible entity that submitted the application a notice describing whether the application is approved or disapproved.

(ii) ADDITIONAL WRITTEN NOTIFICATION.—

(I) IN GENERAL.—Not later than 30 days after the date on which the Secretary provides to an eligible entity a notification under clause (i), the Secretary shall provide to the eligible entity an additional written notification of the approval or disapproval of the application.

(II) DISAPPROVED APPLICATIONS.—If the application of an eligible entity is disapproved under this subparagraph, the additional written notification provided to the eligible entity under subclause (I) shall include an offer for a written or telephonic debrief by the Secretary that will provide an explanation of, and guidance regarding, the reasons why the application was disapproved.

(iii) INSUFFICIENT APPLICATIONS.—The Secretary shall not approve an application under this subparagraph if the application fails to meet the applicable criteria established under this section.

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(3) DASHBOARD.—The Secretary shall publish on the website of the Department a monthly report that includes, for each application received under the pilot program—

(A) the type of eligible entity that submitted the application;

(B) the location of each potential project described in the application;

(C) a brief description of the assistance requested;

(D) the date on which the Secretary received the application; and

(E) the date on which the Secretary provided the notice of approval or disapproval under paragraph (2)(C)(i).

(e) EXPERTS.—An eligible entity that receives assistance under the pilot program may retain the services of an expert for any phase of a project carried out using the assistance, including project development, regardless of whether the expert is retained by the Secretary under subsection (c).

(f) FUNDING.—

(1) IN GENERAL.—For each of fiscal years 2022 through 2026, the Secretary may use to carry out the pilot program, including to retain the services of expert firms under subsection (c), any amount made available to the Secretary to provide credit assistance under an eligible program that is not otherwise obligated, subject to paragraph (2).

(2) LIMITATION.—The amount used under paragraph (1) to carry out the pilot program shall be not more than—

(A) $1,600,000 for fiscal year 2022;

(B) $1,800,000 for fiscal year 2023;

(C) $2,000,000 for fiscal year 2024;

(D) $2,200,000 for fiscal year 2025; and

(E) $2,400,000 for fiscal year 2026.

(3) GEOGRAPHICAL DISTRIBUTION.—Not more than 20 percent of the funds made available to carry out the pilot program for a fiscal year may be used for projects in a single State during that fiscal year.

(g) SUNSET.—The pilot program shall terminate on the date that is 5 years after the date of enactment of this Act.

(h) NONAPPLICABILITY.—Nothing in this section limits the ability of the Build America Bureau or the Secretary to establish or carry out any other assistance program under title 23 or title 49, United States Code.

(i) ADMINISTRATION BY BUILD AMERICA BUREAU.—Section 116(d)(1) of title 49, United States Code (as amended by section 21101(d)(4)), is amended by adding at the end the following:

"(D) The Rural and Tribal Assistance Pilot Program established under section 21205(b)(1) of the Surface Transportation Investment Act of 2021.".

Subtitle C—Railroad Rehabilitation and Improvement Financing Reforms

SEC. 21301. RRIF CODIFICATION AND REFORMS.

(a) CODIFICATION OF TITLE V OF THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976.—Part B of subtitle V of title 49, United States Code, is amended—

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(1) by inserting after chapter 223 the following chapter analysis:

"CHAPTER 224—RAILROAD REHABILITATION AND IMPROVEMENT FINANCING

"Sec.
"22401. Definitions.
"22402. Direct loans and loan guarantees.
"22403. Administration of direct loans and loan guarantees.
"22404. Employee protection.
"22405. Substantive criteria and standards.
"22406. Authorization of appropriations.";

(2) by inserting after the chapter analysis the following section headings:

"§ 22401. Definitions

"§ 22402. Direct loans and loan guarantees

"§ 22403. Administration of direct loans and loan guarantees

"§ 22404. Employee protection";

(3) by inserting after the section heading for section 22401, as added by paragraph (2), the text of section 501 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821);

(4) by inserting after the section heading for section 22402, as added by paragraph (2), the text of section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822);

(5) by inserting after the section heading for section 22403, as added by paragraph (2), the text of section 503 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 823); and

(6) by inserting after the section heading for section 22404, as added by paragraph (2), the text of section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 836).

(b) CONFORMING REPEALS.—

(1) REPEALS.—

(A) Sections 501, 502, 503, and 504 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821, 822, 823, and 836) are repealed.

(B) Section 9003(j) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (45 U.S.C. 822 note) is repealed.

(2) SAVINGS PROVISION.—The repeals under paragraph (1) shall not affect the rights and duties that matured under the repealed sections, the penalties that were incurred under such sections, or any proceeding authorized under any such section that commenced before the date of enactment of this Act.

(c) DEFINITIONS.—

(1) HEADINGS.—Section 22401 of title 49, United States Code, as added by subsection (a)(2), and amended by subsection (a)(3), is further amended—

(A) in paragraph (1)—

(i) by striking "(1)(A) The" and inserting the following:

"(1) COST.—

"(A) The"; and

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(ii) by indenting subparagraphs (B) through (F) appropriately; and

(B) in each of paragraphs (2) through (14), by inserting a paragraph heading, the text of which is comprised of the term defined in the paragraph.

(2) OTHER TECHNICAL AMENDMENTS.—Section 22401 of title 49, United States Code, as added by subsection (a)(2), and amended by subsection (a)(3) and paragraph (1) of this subsection, is further amended—

(A) in the matter preceding paragraph (1), by striking "For purposes of this title:" and inserting "In this chapter:";

(B) in paragraph (11), by striking "under this title" and inserting "under this chapter";

(C) by amending paragraph (12) to read as follows: "(12) RAILROAD.—The term 'railroad' includes—

"(A) any railroad or railroad carrier (as such terms are defined in section 20102); and

"(B) any rail carrier (as defined in section 24102).";

(D) by redesignating paragraph (14) as paragraph (15); and

(E) by inserting after paragraph (13) the following: "(14) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.".

(d) DIRECT LOANS AND LOAN GUARANTEES.—Section 22402 of title 49, United States Code, as added by subsection (a)(2), and amended by subsection (a)(4), is further amended—

(1) in subsection (a)—

(A) in paragraph (2), by inserting "entities implementing" before "interstate compacts";

(B) in paragraph (5)—

(i) by inserting "entities participating in" before "joint ventures"; and

(ii) by striking "and" at the end; and

(C) by striking paragraph (6) and inserting the following:

"(6) limited option freight shippers that own or operate a plant or other facility, solely for the purpose of constructing a rail connection between a plant or facility and a railroad; and

"(7) private entities with controlling ownership in 1 or more freight railroads other than Class I carriers.";

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows: "(1) IN GENERAL.—Direct loans and loan guarantees authorized under this section shall be used—

"(A) to acquire, improve, or rehabilitate intermodal or rail equipment or facilities, including track, components of track, cuts and fills, stations, tunnels, bridges, yards, buildings, and shops, and to finance costs related to those activities, including pre-construction costs;

"(B) to develop or establish new intermodal or railroad facilities;

"(C) to develop landside port infrastructure for seaports serviced by rail;

"(D) to refinance outstanding debt incurred for the purposes described in subparagraph (A) , (B), or (C);

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"(E) to reimburse planning, permitting, and design expenses relating to activities described in subparagraph (A), (B), or (C); or

"(F) to finance economic development, including commercial and residential development, and related infrastructure and activities, that—

"(i) incorporates private investment of greater than 20 percent of total project costs;

"(ii) is physically connected to, or is within ½ mile of, a fixed guideway transit station, an intercity bus station, a passenger rail station, or a multimodal station, provided that the location includes service by a railroad;

"(iii) demonstrates the ability of the applicant to commence the contracting process for construction not later than 90 days after the date on which the direct loan or loan guarantee is obligated for the project under this chapter; and

"(iv) demonstrates the ability to generate new revenue for the relevant passenger rail station or service by increasing ridership, increasing tenant lease payments, or carrying out other activities that generate revenue exceeding costs."; and

(B) by striking paragraph (3);

(3) in subsection (c)—

(A) in paragraph (1), by striking "of title 49, United States Code"; and

(B) in paragraph (5), by striking "title 49, United States Code," and inserting "this title";

(4) in subsection (e), by amending paragraph (1) to read as follows:

"(1) DIRECT LOANS.—The interest rate on a direct loan under this section shall be not less than the yield on United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of execution of the loan agreement.";

(5) in subsection (f)—

(A) in paragraph (3)—

(i) in the matter preceding subparagraph (A)—

(I) by striking "An applicant may propose and" and inserting "Upon receipt of a proposal from an applicant under this section,"; and

(II) by striking "tangible asset" and inserting "collateral described in paragraph (6)";

(ii) in subparagraph (B)(ii), by inserting ", including operating or tenant charges, facility rents, or other fees paid by transportation service providers or operators for access to, or the use of, infrastructure, including rail lines, bridges, tunnels, yards, or stations" after "user fees";

(iii) in subparagraph (C), by striking "$75,000,000" and inserting "$150,000,000"; and

(iv) by adding at the end the following:

"(D) Revenue from projected freight or passenger demand for the project based on regionally developed economic forecasts, including projections of any modal diversion resulting from the project."; and

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(B) by adding at the end the following:

"(5) COHORTS OF LOANS.—Subject to the availability of funds appropriated by Congress under section 22406(a)(2), for any direct loan issued before the date of enactment of the Fixing America's Surface Transportation Act (Public Law 114–94) pursuant to sections 501 through 504 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), the Secretary shall repay the credit risk premiums of such loan, with interest accrued thereon, not later than—

"(A) 60 days after the date of enactment of the Surface Transportation Investment Act of 2021 if the borrower has satisfied all obligations attached to such loan; or

"(B) if the borrower has not yet satisfied all obligations attached to such loan, 60 days after the date on which all obligations attached to such loan have been satisfied.

"(6) COLLATERAL.—

"(A) TYPES OF COLLATERAL.—An applicant or infrastructure partner may propose tangible and intangible assets as collateral, exclusive of goodwill. The Secretary, after evaluating each such asset—

"(i) shall accept a net liquidation value of collateral; and

"(ii) shall consider and may accept—

"(I) the market value of collateral; or

"(II) in the case of a blanket pledge or assignment of an entire operating asset or basket of assets as collateral, the market value of assets, or, the market value of the going concern, considering—

"(aa) inclusion in the pledge of all the assets necessary for independent operational utility of the collateral, including tangible assets such as real property, track and structure, motive power, equipment and rolling stock, stations, systems and maintenance facilities and intangible assets such as long-term shipping agreements, easements, leases and access rights such as for trackage and haulage;

"(bb) interchange commitments; and

"(cc) the value of the asset as determined through the cost or market approaches, or the market value of the going concern, with the latter considering discounted cash flows for a period not to exceed the term of the direct loan or loan guarantee.

"(B) APPRAISAL STANDARDS.—In evaluating appraisals of collateral under subparagraph (A), the Secretary shall consider—

"(i) adherence to the substance and principles of the Uniform Standards of Professional Appraisal Practice, as developed by the Appraisal Standards Board of the Appraisal Foundation; and

"(ii) the qualifications of the appraisers to value the type of collateral offered.

"(7) REPAYMENT OF CREDIT RISK PREMIUMS.—The Secretary shall return credit risk premiums paid, and interest accrued

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on such premiums, to the original source when all obligations of a loan or loan guarantee have been satisfied. This paragraph applies to any project that has been granted assistance under this section after the date of enactment of the Surface Transportation Investment Act of 2021.";

(6) in subsection (g), by amending paragraph (1) the read as follows:

"(1) repayment of the obligation is required to be made within a term that is not longer than the shorter of—

"(A) 75 years after the date of substantial completion of the project;

"(B) the estimated useful life of the rail equipment or facilities to be acquired, rehabilitated, improved, developed, or established, subject to an adequate determination of long-term risk; or

"(C) for projects determined to have an estimated useful life that is longer than 35 years, the period that is equal to the sum of—

"(i) 35 years; and

"(ii) the product of—

"(I) the difference between the estimated useful life and 35 years; multiplied by

"(II) 75 percent.";

(7) in subsection (h)—

(A) in paragraph (3)—

(i) in subparagraph (A)—

(I) by striking "of title 49, United States Code";

(II) by striking "the National Railroad Passenger Corporation" and inserting "Amtrak"; and

(III) by striking "of that title"; and

(ii) in subparagraph (B), by striking "section 504 of this Act" and inserting "section 22404"; and

(B) in paragraph (4), by striking "(b)(1)(E)" and inserting "(b)(1)(F)";

(8) in subsection (i)—

(A) by amending paragraph (4) to read as follows:

"(4) STREAMLINED APPLICATION REVIEW PROCESS.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of the Surface Transportation Investment Act of 2021, the Secretary shall implement procedures and measures to economize and make available an streamlined application process or processes at the request of applicants seeking loans or loan guarantees.

"(B) CRITERIA.—Applicants seeking loans and loan guarantees under this section shall—

"(i) seek a total loan or loan guarantee value not exceeding $150,000,000;

"(ii) meet eligible project purposes described in subparagraphs (A) and (B) of subsection (b)(1); and

"(iii) meet other criteria considered appropriate by the Secretary, in consultation with the Council on Credit and Finance of the Department of Transportation.

"(C) EXPEDITED CREDIT REVIEW.—The total period between the submission of an application and the approval or disapproval of an application for a direct loan or loan guarantee under this paragraph may not exceed 90 days.

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If an application review conducted under this paragraph exceeds 90 days, the Secretary shall—

"(i) provide written notice to the applicant, including a justification for the delay and updated estimate of the time needed for approval or disapproval; and

"(ii) publish the notice on the dashboard described in paragraph (5).";

(B) in paragraph (5)—

(i) in subparagraph (E), by striking "and" at the end;

(ii) in subparagraph (F), by adding "; and" at the end; and

(iii) by adding at the end the following:

"(G) whether the project utilized the streamlined application process under paragraph (4)."; and

(C) by adding at the end the following:

"(6) CREDITWORTHINESS REVIEW STATUS.—

"(A) IN GENERAL.—The Secretary shall maintain status information related to each application for a loan or loan guarantee, which shall be provided to the applicant upon request, including—

"(i) the total value of the proposed loan or loan guarantee;

"(ii) the name of the applicant or applicants submitting the application;

"(iii) the proposed capital structure of the project to which the loan or loan guarantee would be applied, including the proposed Federal and non-Federal shares of the total project cost;

"(iv) the type of activity to receive credit assistance, including whether the project is new construction, the rehabilitation of existing rail equipment or facilities, or the refinancing an existing loan or loan guarantee;

"(v) if a deferred payment is proposed, the length of such deferment;

"(vi) the credit rating or ratings provided for the applicant;

"(vii) if other credit instruments are involved, the proposed subordination relationship and a description of such other credit instruments;

"(viii) a schedule for the readiness of proposed investments for financing;

"(ix) a description of any Federal permits required, including under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any waivers under section 5323(j) (commonly known as the 'Buy America Act');

"(x) other characteristics of the proposed activity to be financed, borrower, key agreements, or the nature of the credit that the Secretary considers to be fundamental to the creditworthiness review;

"(xi) the status of the application in the pre-application review and selection process;

"(xii) the cumulative amounts paid by the Secretary to outside advisors related to the application, including financial and legal advisors;

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"(xiii) a description of the key rating factors used by the Secretary to determine credit risk, including—

"(I) the factors used to determine risk for the proposed application;

"(II) an adjectival risk rating for each identified factor, ranked as either low, moderate, or high;

"(xiv) a nonbinding estimate of the credit risk premium, which may be in the form of—

"(I) a range, based on the assessment of risk factors described in clause (xiii); or

"(II) a justification for why the estimate of the credit risk premium cannot be determined based on available information; and

"(xv) a description of the key information the Secretary needs from the applicant to complete the credit review process and make a final determination of the credit risk premium.

"(B) REPORT UPON REQUEST.—The Secretary shall provide the information described in subparagraph (A) not later than 30 days after a request from the applicant.

"(C) EXCEPTION.—Applications processed using the streamlined application review process under paragraph (4) are not subject to the requirements under this paragraph.";

(9) in subsection (l)(2)(A)(iii), by striking "under this title" and inserting "under this chapter";

(10) in subsection (m)(1), by striking "under this title" and inserting "under this chapter"; and

(11) by adding at the end the following:

"(n) NON-FEDERAL SHARE.—The proceeds of a loan provided under this section may be used as the non-Federal share of project costs for any grant program administered by the Secretary if such loan is repayable from non-Federal funds.".

(e) ADMINISTRATION OF DIRECT LOANS AND LOAN GUARANTEES.—Section 22403 of title 49, United States Code, as added by subsection (a)(2), and amended by subsection (a)(5), is further amended—

(1) in subsection (a)—

(A) by striking "The Secretary shall" and inserting the following:

"(1) IN GENERAL.—The Secretary shall";

(B) in paragraph (1), as designated by subparagraph (A), by striking "section 502" and inserting "section 22402"; and

(C) by adding at the end the following:

"(2) DOCUMENTATION.—An applicant meeting the size standard for small business concerns established under section 3(a)(2) of the Small Business Act (15 U.S.C. 632(a)(2)) may provide unaudited financial statements as documentation of historical financial information if such statements are accompanied by the applicant's Federal tax returns and Internal Revenue Service tax verifications for the corresponding years.";

(2) in subsection (d)(3), by striking "section 502(f)" and inserting "section 22402(f)";

(3) in subsection (l)(3)(B), by striking "serving a direct loan" and inserting "servicing a direct loan"; and

(4) in each of subsections (b) through (m), as applicable—

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(A) by striking "section 502" each place it appears and inserting "section 22402"; and

(B) by striking "this title" each place it appears and inserting "this chapter".

(f) EMPLOYEE PROTECTION.—Section 22404 of title 49, United States Code, as added by subsection (a)(2), and amended by subsection (a)(6), is further amended—

(1) in subsection (a)—

(A) by striking "not otherwise protected under title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771 et seq.),";

(B) by striking "under this title" and inserting "under this chapter";

(C) by striking "within 120 days after the date of enactment of this title" and inserting "not later than 120 days after February 5, 1976"; and

(D) by striking "within 150 days after the date of enactment of this title" and inserting "not later than 150 days after February 5, 1976";

(2) in subsection (b)—

(A) in the matter preceding paragraph (1)—

(i) by striking "applicable financial assistance under this title" and inserting "applicable financial assistance under this chapter"; and

(ii) by striking "from financial assistance under this title" and inserting "from financial assistance under this chapter";

(B) in paragraph (3), by striking "under this title" and inserting "under this chapter"; and

(C) in paragraph (4), by striking "to this title" and inserting "to this chapter"; and

(3) in subsection (c), by striking "to this title" and inserting "to this chapter".

(g) SUBSTANTIVE CRITERIA AND STANDARDS.—Chapter 224 of title 49, United States Code, as added by subsection (a), and amended by subsections (c) through (f), is further amended by adding at the end the following:

"§ 22405. Substantive criteria and standards

"The Secretary shall—

"(1) publish in the Federal Register and post on a website of the Department of Transportation the substantive criteria and standards used by the Secretary to determine whether to approve or disapprove applications submitted under section 22402; and

"(2) ensure that adequate procedures and guidelines are in place to permit the filing of complete applications not later than 30 days after the publication referred to in paragraph (1).".

(h) AUTHORIZATION OF APPROPRIATIONS.—Chapter 224 of title 49, United States Code, as added by subsection (a), and amended by subsections (c) through (g), is further amended by adding at the end the following:

"§ 22406. Authorization of appropriations.

"(a) AUTHORIZATION.—

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"(1) IN GENERAL.—There is authorized to be appropriated for credit assistance under this chapter, which shall be provided at the discretion of the Secretary, $50,000,000 for each of fiscal years 2022 through 2026.

"(2) REFUND OF PREMIUM.—There is authorized to be appropriated to the Secretary $70,000,000 to repay the credit risk premium in accordance with section 22402(f)(5).

"(3) AVAILABILITY.—Amounts appropriated pursuant to this subsection shall remain available until expended.

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—Credit assistance provided under subsection (a) may not exceed $20,000,000 for any loan or loan guarantee.

"(2) ADMINISTRATIVE COSTS.—Not less than 3 percent of the amounts appropriated pursuant to subsection (a) in each fiscal year shall be made available to the Secretary for use in place of charges collected under section 22403(l)(1) for passenger railroads and freight railroads other than Class I carriers.

"(3) SHORT LINE SET-ASIDE.—Not less than 50 percent of the amounts appropriated pursuant to subsection (a)(1) for each fiscal year shall be set aside for freight railroads other than Class I carriers.".

(i) CLERICAL AMENDMENT.—The analysis for title 49, United States Code, is amended by inserting after the item relating to chapter 223 the following:

"224 . Railroad rehabilitation and improvement financing .....22401".

(j) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) NATIONAL TRAILS SYSTEM ACT.—Section 8(d) of the National Trails System Act (16 U.S.C. 1247(d)) is amended by inserting "(45 U.S.C. 801 et seq.) and chapter 224 of title 49, United States Code" after "1976".

(2) PASSENGER RAIL REFORM AND INVESTMENT ACT.—Section 11315(c) of the Passenger Rail Reform and Investment Act of 2015 (23 U.S.C. 322 note; Public Law 114–94) is amended by striking "sections 502 and 503 of the Railroad Revitalization and Regulatory Reform Act of 1976" and inserting "sections 22402 and 22403 of title 49, United States Code".

(3) PROVISIONS CLASSIFIED IN TITLE 45, UNITED STATES CODE.—

(A) RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976.—Section 101 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801) is amended—

(i) in subsection (a), in the matter preceding paragraph (1), by striking "It is the purpose of the Congress in this Act to" and inserting "The purpose of this Act and chapter 224 of title 49, United States Code, is to"; and

(ii) in subsection (b), in the matter preceding paragraph (1), by striking "It is declared to be the policy of the Congress in this Act" and inserting "The policy of this Act and chapter 224 of title 49, United States Code, is".

(B) RAILROAD INFRASTRUCTURE FINANCING IMPROVEMENT ACT.—The Railroad Infrastructure Financing

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Improvement Act (subtitle F of title XI of Public Law 114–94) is amended—

(i) in section 11607(b) (45 U.S.C. 821 note), by striking "All provisions under sections 502 through 504 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.)" and inserting "All provisions under section 22402 through 22404 of title 49, United States Code,"; and

(ii) in section 11610(b) (45 U.S.C. 821 note), by striking "section 502(f) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(f)), as amended by section 11607 of this Act" and inserting "section 22402(f) of title 49, United States Code".

(C) TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.—Section 7203(b)(2) of the Transportation Equity Act for the 21st Century (Public Law 105–178; 45 U.S.C. 821 note) is amended by striking "title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.)" and inserting "chapter 224 of title 49, United States Code,".

(D) HAMM ALERT MARITIME SAFETY ACT OF 2018.—Section 212(d)(1) of Hamm Alert Maritime Safety Act of 2018 (title II of Public Law 115–265; 45 U.S.C. 822 note) is amended, in the matter preceding subparagraph (A), by striking "for purposes of section 502(f)(4) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(f)(4))" and inserting "for purposes of section 22402 of title 49, United States Code".

(E) MILWAUKEE RAILROAD RESTRUCTURING ACT.—Section 15(f) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 914(f)) is amended by striking "Section 516 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 836)" and inserting "Section 22404 of title 49, United States Code,".

(F) ROCK ISLAND RAILROAD TRANSITION AND EMPLOYEE ASSISTANCE ACT.—Section 104(b) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1003(b)) is amended—

(i) in paragraph (1)—

(I) by striking "title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.)" and inserting "chapter 224 of title 49, United States Code,"; and

(II) by striking "and section 18(b) of the Milwaukee Railroad Restructuring Act"; and

(ii) in paragraph (2), by striking "title V of the Railroad Revitalization and Regulatory Reform Act of 1976, and section 516 of such Act (45 U.S.C. 836)" and inserting "chapter 224 of title 49, United States Code, including section 22404 of such title,".

(4) TITLE 49.—

(A) NATIONAL SURFACE TRANSPORTATION AND INNOVATIVE FINANCE BUREAU.—Section 116(d)(1)(B) of title 49, United States Code, is amended by striking "sections 501 through 503 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821–823)" and inserting "sections 22401 through 22403".

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(B) PROHIBITED DISCRIMINATION.—Section 306(b) of title 49, United States Code, is amended—

(i) by striking "chapter 221 or 249 of this title," and inserting "chapter 221, 224, or 249 of this title, or"; and

(ii) by striking ", or title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.)".

(C) PASSENGER RAIL REFORM AND INVESTMENT ACT OF 2015.—Section 11311(d) of the Passenger Rail Reform and Investment Act of 2015 (Public Law 114–94; 49 U.S.C. 20101 note) is amended by striking ", and section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822)".

(D) GRANT CONDITIONS.—Section 22905(c)(2)(B) of title 49, United States Code, is amended by striking "section 504 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 836)" and inserting "section 22404".

(E) PASSENGER RAIL INVESTMENT AND IMPROVEMENT ACT OF 2008.—Section 205(g) of the Passenger Rail Investment and Improvement Act of 2008 (division B of Public Law 110–432; 49 U.S.C. 24101 note) is amended by striking "title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.)" and inserting "chapter 224 of title 49, United States Code".

(F) AMTRAK AUTHORITY.—Section 24903 of title 49, United States Code, is amended—

(i) in subsection (a)(6), by striking "and the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.)" and inserting ", the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.), and chapter 224 of this title"; and

(ii) in subsection (c)(2), by striking "and the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.)" and inserting ", the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.), and chapter 224 of this title".

SEC. 21302. SUBSTANTIVE CRITERIA AND STANDARDS.

Not later than 180 days after the date of enactment of this Act, the Secretary shall update the publicly available credit program guide in accordance with the provisions of chapter 224 of title 49, United States Code, as added by section 21301.

SEC. 21303. SEMIANNUAL REPORT ON TRANSIT-ORIENTED DEVELOPMENT ELIGIBILITY.

Not later than 6 months after the date of enactment of this Act, and every 6 months thereafter, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that identifies—

(1) the number of applications submitted to the Department for a direct loan or loan guarantee under section 22402(b)(1)(E) of title 49, United States Code, as amended by section 21301;

(2) the number of such loans or loan guarantees that were provided to the applicants; and

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(3) for each such application, the reasons for providing or declining to provide the requested loan or loan guarantee.

TITLE II—RAIL

SEC. 22001. SHORT TITLE.

This title may be cited as the "Passenger Rail Expansion and Rail Safety Act of 2021".

Subtitle A—Authorization of Appropriations

SEC. 22101. GRANTS TO AMTRAK.

(a) NORTHEAST CORRIDOR.—There are authorized to be appropriated to the Secretary for grants to Amtrak for activities associated with the Northeast Corridor the following amounts:

(1) For fiscal year 2022, $1,570,000,000.
(2) For fiscal year 2023, $1,100,000,000.
(3) For fiscal year 2024, $1,200,000,000.
(4) For fiscal year 2025, $1,300,000,000.
(5) For fiscal year 2026, $1,400,000,000.

(b) NATIONAL NETWORK.—There are authorized to be appropriated to the Secretary for grants to Amtrak for activities associated with the National Network the following amounts:

(1) For fiscal year 2022, $2,300,000,000.
(2) For fiscal year 2023, $2,200,000,000.
(3) For fiscal year 2024, $2,450,000,000.
(4) For fiscal year 2025, $2,700,000,000.
(5) For fiscal year 2026, $3,000,000,000.

(c) OVERSIGHT.—The Secretary may withhold up to 0.5 percent from the amount appropriated for each fiscal year pursuant to subsections (a) and (b) for the costs of oversight of Amtrak.

(d) STATE-SUPPORTED ROUTE COMMITTEE.—The Secretary may withhold up to $3,000,000 from the amount appropriated for each fiscal year pursuant to subsection (b) for use by the State-Supported Route Committee established under section 24712(a) of title 49, United States Code.

(e) NORTHEAST CORRIDOR COMMISSION.—The Secretary may withhold up to $6,000,000 from the amount appropriated for each fiscal year pursuant to subsection (a) for use by the Northeast Corridor Commission established under section 24905(a) of title 49, United States Code.

(f) INTERSTATE RAIL COMPACTS.—The Secretary may withhold up to $3,000,000 from the amount appropriated for each fiscal year pursuant to subsection (b) for grants authorized under section 22910 of title 49, United States Code.

(g) ACCESSIBILITY UPGRADES.—

(1) IN GENERAL.—The Secretary shall withhold $50,000,000 from the amount appropriated for each fiscal year pursuant to subsections (a) and (b) for grants to assist Amtrak in financing capital projects to upgrade the accessibility of the national rail passenger transportation system by increasing the number of existing facilities that are compliant with the requirements under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) until the Secretary determines

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Amtrak's existing facilities are in compliance with such requirements.

(2) SAVINGS PROVISION.—Nothing in paragraph (1) may be construed to prevent Amtrak from using additional funds appropriated pursuant to this section to carry out the activities authorized under such paragraph.

(h) CORRIDOR DEVELOPMENT.—In addition to the activities authorized under subsection (b), Amtrak may use up to 10 percent of the amounts appropriated under subsection (b) in each fiscal year to support Amtrak-operated corridors selected under section 22306 for—

(1) planning and capital costs; and

(2) operating assistance consistent with the Federal funding limitations under section 22908 of title 49, United States Code.

SEC. 22102. FEDERAL RAILROAD ADMINISTRATION.

(a) SAFETY AND OPERATIONS.—There are authorized to be appropriated to the Secretary for the operations of the Federal Railroad Administration and to carry out railroad safety activities the following amounts:

(1) For fiscal year 2022, $248,000,000.
(2) For fiscal year 2023, $254,000,000.
(3) For fiscal year 2024, $263,000,000.
(4) For fiscal year 2025, $271,000,000.
(5) For fiscal year 2026, $279,000,000.

(b) RAILROAD RESEARCH AND DEVELOPMENT.—There are authorized to be appropriated to the Secretary for the use of the Federal Railroad Administration for activities associated with railroad research and development the following amounts:

(1) For fiscal year 2022, $43,000,000.
(2) For fiscal year 2023, $44,000,000.
(3) For fiscal year 2024, $45,000,000.
(4) For fiscal year 2025, $46,000,000.
(5) For fiscal year 2026, $47,000,000.

(c) TRANSPORTATION TECHNOLOGY CENTER.—The Secretary may withhold up to $3,000,000 from the amount appropriated for each fiscal year pursuant to subsection (b) for activities authorized under section 20108(d) of title 49, United States Code.

(d) RAIL RESEARCH AND DEVELOPMENT CENTER OF EXCELLENCE.—The Secretary may withhold up to 10 percent of the amount appropriated for each fiscal year under subsection (b) for grants authorized under section 20108(j) of title 49, United States Code.

SEC. 22103. CONSOLIDATED RAIL INFRASTRUCTURE AND SAFETY IMPROVEMENTS GRANTS.

(a) IN GENERAL.—There is authorized to be appropriated to the Secretary for grants under section 22907 of title 49, United States Code, $1,000,000,000 for each of fiscal years 2022 through 2026.

(b) OVERSIGHT.—The Secretary may withhold up to 2 percent from the amount appropriated for each fiscal year pursuant to subsection (a) for the costs of project management oversight of grants authorized under title 49, United States Code.

SEC. 22104. RAILROAD CROSSING ELIMINATION PROGRAM.

(a) IN GENERAL.—There is authorized to be appropriated to the Secretary for grants under section 22909 of title 49, United

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States Code, as added by section 22305, $500,000,000 for each of fiscal years 2022 through 2026.

(b) PLANNING PROJECTS.—Not less than 3 percent of the amount appropriated in each fiscal year pursuant to subsection (a) year shall be used for planning projects described in section 22909(d)(6) of title 49, United States Code.

(c) HIGHWAY-RAIL GRADE CROSSING SAFETY INFORMATION AND EDUCATION PROGRAM.—Of the amount appropriated under subsection (a) in each fiscal year, 0.25 percent shall be used for contracts or grants to carry out a highway-rail grade crossing safety information and education program—

(1) to help prevent and reduce pedestrian, motor vehicle, and other accidents, incidents, injuries, and fatalities; and

(2) to improve awareness along railroad rights-of-way and at highway-rail grade crossings.

(d) OVERSIGHT.—The Secretary may withhold up to 2 percent from the amount appropriated for each fiscal year pursuant to subsection (a) for the costs of project management oversight of grants authorized under title 49, United States Code.

SEC. 22105. RESTORATION AND ENHANCEMENT GRANTS.

(a) IN GENERAL.—There is authorized to be appropriated to the Secretary for grants under section 22908 of title 49, United States Code, $50,000,000 for each of fiscal years 2022 through 2026.

(b) OVERSIGHT.—The Secretary may withhold up to 1 percent of the amount appropriated for each fiscal year pursuant to subsection (a) for the costs of project management oversight of grants authorized under title 49, United States Code.

SEC. 22106. FEDERAL-STATE PARTNERSHIP FOR INTERCITY PASSENGER RAIL GRANTS.

(a) IN GENERAL.—There is authorized to be appropriated to the Secretary for grants under section 24911 of title 49, United States Code, $1,500,000,000 for each of fiscal years 2022 through 2026.

(b) OVERSIGHT.—The Secretary may withhold up to 2 percent of the amount appropriated under subsection (a) for the costs of project management oversight of grants authorized under title 49, United States Code.

SEC. 22107. AMTRAK OFFICE OF INSPECTOR GENERAL.

There are authorized to be appropriated to the Office of Inspector General of Amtrak the following amounts:

(1) For fiscal year 2022, $26,500,000.
(2) For fiscal year 2023, $27,000,000.
(3) For fiscal year 2024, $27,500,000.
(4) For fiscal year 2025, $28,000,000.
(5) For fiscal year 2026, $28,500,000.

Subtitle B—Amtrak Reforms

SEC. 22201. AMTRAK FINDINGS, MISSION, AND GOALS.

(a) FINDINGS.—Section 24101(a) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking "between crowded urban areas and in other areas of" and inserting "throughout";

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(2) in paragraph (4), by striking "to Amtrak to achieve a performance level sufficient to justify expending public money" and inserting "in order to meet the intercity passenger rail needs of the United States";

(3) in paragraph (5)—

(A) by inserting "intercity passenger and" before "commuter"; and

(B) by inserting "and rural" after "major urban;" and

(4) by adding at the end the following:

"(9) Long-distance routes are valuable resources of the United States that are used by rural and urban communities.".

(b) GOALS.—Section 24101(c) of title 49, United States Code, is amended—

(1) by amending paragraph (1) to read as follows:

"(1) use its best business judgment in acting to maximize the benefits of Federal investments, including—

"(A) offering competitive fares;

"(B) increasing revenue from the transportation of mail and express;

"(C) offering food service that meets the needs of its customers;

"(D) improving its contracts with rail carriers over whose tracks Amtrak operates;

"(E) controlling or reducing management and operating costs; and

"(F) providing economic benefits to the communities it serves;";

(2) in paragraph (11), by striking "and" at the end;

(3) in paragraph (12), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(13) support and maintain established long-distance routes to provide value to the Nation by serving customers throughout the United States and connecting urban and rural communities.".

(c) INCREASING REVENUES.—Section 24101(d) of title 49, United States Code, is amended to read as follows:

"(d) INCREASING REVENUES.—Amtrak is encouraged to make agreements with private sector entities and to undertake initiatives that are consistent with good business judgment and designed to generate additional revenues to advance the goals described in subsection (c).".

SEC. 22202. COMPOSITION OF AMTRAK'S BOARD OF DIRECTORS.

(a) SELECTION; COMPOSITION; CHAIR.—Section 24302(a) of title 49, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking "President" and inserting "Chief Executive Officer"; and

(B) in subparagraph (C), by inserting ", at least 1 of whom shall be an individual with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)) who has a demonstrated history of, or experience with, accessibility, mobility, and inclusive transportation in passenger rail or commuter rail" before the period at the end;

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(2) in paragraph (2), by striking "and try to provide adequate and balanced representation of the major geographic regions of the United States served by Amtrak";

(3) by redesignating paragraph (5) as paragraph (7); and

(4) by striking paragraph (4) and inserting the following:

"(4) Of the individuals appointed pursuant to paragraph (1)(C)—

"(A) 2 individuals shall reside in or near a location served by a regularly scheduled Amtrak service along the Northeast Corridor;

"(B) 4 individuals shall reside in or near regions of the United States that are geographically distributed outside of the Northeast Corridor, of whom—

"(i) 2 individuals shall reside in States served by a long-distance route operated by Amtrak;

"(ii) 2 individuals shall reside in States served by a State-supported route operated by Amtrak; and

"(iii) an individual who resides in a State that is served by a State-supported route and a long-distance route may be appointed to serve either position referred to in clauses (i) and (ii);

"(C) 2 individuals shall reside either—

"(i) in or near a location served by a regularly scheduled Amtrak service on the Northeast Corridor; or

"(ii) in a State served by long-distance or a State-supported route; and

"(D) each individual appointed to the Board pursuant to this paragraph may only fill 1 of the allocations set forth in subparagraphs (A) through (C).

"(5) The Board shall elect a chairperson and vice chairperson, other than the Chief Executive Officer of Amtrak, from among its membership. The vice chairperson shall act as chairperson in the absence of the chairperson.

"(6) The Board shall meet at least annually with—

"(A) representatives of Amtrak employees;

"(B) representatives of persons with disabilities; and

"(C) the general public, in an open meeting with a virtual attendance option, to discuss financial performance and service results.".

(b) RULE OF CONSTRUCTION.—None of the amendments made by subsection (a) may be construed as affecting the term of any director serving on the Amtrak Board of Directors under section 24302(a)(1)(C) of title 49, United States Code, as of the date of enactment of this Act.

SEC. 22203. STATION AGENTS.

Section 24312 of title 49, United States Code, is amended by adding at the end the following:

"(c) AVAILABILITY OF STATION AGENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), beginning on the date that is 1 year after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, Amtrak shall ensure that at least 1 Amtrak ticket agent is employed at each station building—

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"(A) that Amtrak owns, or operates service through, as part of a long-distance or Northeast Corridor passenger service route;

"(B) where at least 1 Amtrak ticket agent was employed on or after October 1, 2017; and

"(C) for which an average of 40 passengers boarded or deboarded an Amtrak train per day during all of the days in fiscal year 2017 when the station was serviced by Amtrak, regardless of the number of Amtrak trains servicing the station per day.

"(2) EXCEPTION.—Paragraph (1) shall not apply to any station building in which a commuter rail ticket agent has the authority to sell Amtrak tickets.".

SEC. 22204. INCREASING OVERSIGHT OF CHANGES TO AMTRAK LONG-DISTANCE ROUTES AND OTHER INTERCITY SERVICES.

(a) AMTRAK ANNUAL OPERATIONS REPORT.—Section 24315(a)(1) of title 49, United States Code, is amended—

(1) in subparagraph (G), by striking "and" at the end;

(2) in subparagraph (H), by adding "and" at the end; and

(3) by adding at the end the following:

"(I) any change made to a route's or service's frequency or station stops;".

(b) 5-YEAR BUSINESS LINE PLANS.—Section 24320(b)(2) of title 49, United States Code, is amended—

(1) by redesignating subparagraphs (B) through (L) as subparagraphs (C) through (M), respectively; and

(2) by inserting after subparagraph (A) the following:

"(B) a detailed description of any plans to permanently change a route's or service's frequency or station stops for the service line;".

SEC. 22205. IMPROVED OVERSIGHT OF AMTRAK ACCOUNTING.

Section 24317 of title 49, United States Code, is amended—

(1) in subsection (a)(2), by striking "and costs among Amtrak business lines" and inserting ", including Federal grant funds, and costs among Amtrak service lines";

(2) by amending subsection (b) to read as follows:

"(b) ACCOUNT STRUCTURE.—

"(1) IN GENERAL.—The Secretary of Transportation, in consultation with Amtrak, shall define, maintain, and periodically update an account structure and improvements to accounting methodologies, as necessary, to support the Northeast Corridor and the National Network.

"(2) NOTIFICATION OF SUBSTANTIVE CHANGES.—The Secretary shall notify the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Appropriations of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Appropriations of the House of Representatives regarding any substantive changes made to the account structure, including changes to—

"(A) the service lines described in section 24320(b)(1); and

"(B) the asset lines described in section 24320(c)(1).";

(3) in subsection (c), in the matter preceding paragraph (1), by inserting ", maintaining, and updating" after "defining";

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(4) in subsection (d), in the matter preceding paragraph (1), by inserting ", maintaining, and updating" after "defining";

(5) by amending subsection (e) to read as follows:

"(e) IMPLEMENTATION AND REPORTING.—

"(1) IN GENERAL.—Amtrak, in consultation with the Secretary of Transportation, shall maintain and implement any account structures and improvements defined under subsection (b) to enable Amtrak to produce sources and uses statements for each of the service lines described in section 24320(b)(1) and, as appropriate, each of the asset lines described in section 24320(c)(1), that identify sources and uses of revenues, appropriations, and transfers between accounts.

"(2) UPDATED SOURCES AND USES STATEMENTS.—Not later than 30 days after the implementation of subsection (b), and monthly thereafter, Amtrak shall submit to the Secretary of Transportation updated sources and uses statements for each of the service lines and asset lines referred to in paragraph (1). The Secretary and Amtrak may agree to a different frequency of reporting.";

(6) by striking subsection (h); and

(7) by redesignating subsection (i) as subsection (h).

SEC. 22206. IMPROVED OVERSIGHT OF AMTRAK SPENDING.

(a) ALLOCATION OF COSTS AND REVENUES.—Section 24318(a) of title 49, United States Code, is amended by striking "Not later than 180 days after the date of enactment of the Passenger Rail Reform and Investment Act of 2015,".

(b) GRANT PROCESS AND REPORTING.—Section 24319 of title 49, United States Code, is amended—

(1) in the section heading, by inserting "**and reporting**" after "**process**";

(2) by amending subsection (a) to read as follows:

"(a) PROCEDURES FOR GRANT REQUESTS.—The Secretary of Transportation shall—

"(1) establish and maintain substantive and procedural requirements, including schedules, for grant requests under this section; and

"(2) report any changes to such procedures to—

"(A) the Committee on Commerce, Science, and Transportation of the Senate;

"(B) the Committee on Appropriations of the Senate;

"(C) the Committee on Transportation and Infrastructure of the House of Representatives; and

"(D) the Committee on Appropriations of the House of Representatives.";

(3) in subsection (b), by striking "grant requests" and inserting "a grant request annually, or as additionally required,";

(4) by amending subsection (c) to read as follows:

"(c) CONTENTS.—

"(1) IN GENERAL.—Each grant request under subsection (b) shall, as applicable—

"(A) categorize and identify, by source, the Federal funds and program income that will be used for the upcoming fiscal year for each of the Northeast Corridor and National Network in 1 of the categories or subcategories set forth in paragraph (2);

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"(B) describe the operations, services, programs, projects, and other activities to be funded within each of the categories set forth in paragraph (2), including—

"(i) the estimated scope, schedule, and budget necessary to complete each project and program; and

"(ii) the performance measures used to quantify expected and actual project outcomes and benefits, aggregated by fiscal year, project milestone, and any other appropriate grouping; and

"(C) describe the status of efforts to improve Amtrak's safety culture.

"(2) GRANT CATEGORIES.—

"(A) OPERATING EXPENSES.—Each grant request to use Federal funds for operating expenses shall—

"(i) include estimated net operating costs not covered by other Amtrak revenue sources;

"(ii) specify Federal funding requested for each service line described in section 24320(b)(1); and

"(iii) be itemized by route.

"(B) DEBT SERVICE.—A grant request to use Federal funds for expenses related to debt, including payment of principle and interest, as allowed under section 205 of the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110–432; 49 U.S.C. 24101 note).

"(C) CAPITAL.—A grant request to use Federal funds and program income for capital expenses shall include capital projects and programs primarily associated with—

"(i) normalized capital replacement programs, including regularly recurring work programs implemented on a systematic basis on classes of physical railroad assets, such as track, structures, electric traction and power systems, rolling stock, and communications and signal systems, to maintain and sustain the condition and performance of such assets to support continued railroad operations;

"(ii) improvement projects to support service and safety enhancements, including discrete projects implemented in accordance with a fixed scope, schedule, and budget that result in enhanced or new infrastructure, equipment, or facilities;

"(iii) backlog capital replacement projects, including discrete projects implemented in accordance with a fixed scope, schedule, and budget that primarily replace or rehabilitate major infrastructure assets, including tunnels, bridges, stations, and similar assets, to reduce the state of good repair backlog on the Amtrak network;

"(iv) strategic initiative projects, including discrete projects implemented in accordance with a fixed scope, schedule, and budget that primarily improve overall operational performance, lower costs, or otherwise improve Amtrak's corporate efficiency; and

"(v) statutory, regulatory, or other legally mandated projects, including discrete projects implemented in accordance with a fixed scope, schedule, and budget that enable Amtrak to fulfill specific legal or regulatory mandates.

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"(D) CONTINGENCY.—A grant request to use Federal funds for operating and capital expense contingency shall include—

"(i) contingency levels for specified activities and operations; and

"(ii) a process for the utilization of such contingency.

"(3) MODIFICATION OF CATEGORIES.—The Secretary of Transportation and Amtrak may jointly agree to modify the categories set forth in paragraph (2) if such modifications are necessary to improve the transparency, oversight, or delivery of projects funded through grant requests under this section.";

(5) in subsection (d)(1)(A)—

(A) by inserting "complete" after "submits a";

(B) by striking "shall complete" and inserting "shall finish"; and

(C) in clause (ii), by striking "incomplete or";

(6) in subsection (e)—

(A) in paragraph (1)—

(i) by striking "and other activities to be funded by the grant" and inserting "programs, projects, and other activities to be funded by the grant, consistent with the categories required for Amtrak in a grant request under subsection (c)(1)(A)"; and

(ii) by striking "or activities" and inserting "programs, projects, and other activities"; and

(B) in paragraph (3)—

(i) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(ii) by inserting before subparagraph (B), as redesignated, the following:

"(A) using an otherwise allowable approach to the method prescribed for a specific project or category of projects under paragraph (2) if the Secretary and Amtrak agree that a different payment method is necessary to more successfully implement and report on an operation, service, program, project, or other activity;";

(7) by redesignating subsection (h) as subsection (j); and

(8) by inserting after subsection (g) the following:

"(h) APPLICABLE LAWS AND REGULATIONS.—

"(1) SINGLE AUDIT ACT OF 1984.—Notwithstanding section 24301(a)(3) of this title and section 7501(a)(13) of title 31, Amtrak shall be deemed a 'non-Federal entity' for purposes of chapter 75 of title 31.

"(2) REGULATIONS AND GUIDANCE.—The Secretary of Transportation may apply some or all of the requirements set forth in the regulations and guidance promulgated by the Secretary relating to the management, administration, cost principles, and audit requirements for Federal awards.

"(i) AMTRAK GRANT REPORTING.—The Secretary of Transportation shall determine the varying levels of detail and information that will be included in reports for operations, services, program, projects, program income, cash on hand, and other activities within each of the grant categories described in subsection (c)(2).".

(c) CONFORMING AMENDMENTS.—

(1) REPORTS AND AUDITS.—Section 24315(b)(1) of title 49, United States Code, is amended—

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(A) in subparagraph (A), by striking "the goal of section 24902(b) of this title; and" and inserting "the goal described in section 24902(a);";

(B) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(C) shall incorporate the category described in section 24319(c)(2)(C).".

(2) CLERICAL AMENDMENT.—The analysis for chapter 243 of title 49, United States Code, is amended by striking the item relating to section 24319 and inserting the following:

"24319. Grant process and reporting.".

SEC. 22207. INCREASING SERVICE LINE AND ASSET LINE PLAN TRANSPARENCY.

(a) IN GENERAL.—Section 24320 of title 49, United States Code, is amended—

(1) in the section heading, by striking "**business line and asset plans**" and inserting "**service line and asset line plans**";

(2) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "of each year" and inserting ", 2020, and biennially thereafter";

(ii) by striking "5-year business line plans and 5-year asset plans" and inserting "5-year service line plans and 5-year asset line plans"; and

(iii) by adding at the end the following: "During each year in which Amtrak is not required to submit a plan under this paragraph, Amtrak shall submit to Congress updated financial sources and uses statements and forecasts with the annual report required under section 24315(b).."; and

(B) in paragraph (2), by striking "asset plan required in" and inserting "asset line plan required under";

(3) in subsection (b)—

(A) in the subsection heading, by striking "BUSINESS" and inserting "SERVICE";

(B) in paragraph (1)—

(i) in the paragraph heading, by striking "BUSINESS" and inserting "SERVICE";

(ii) by striking "business" each place such term appears and inserting "service";

(iii) by amending subparagraph (B) to read as follows:

"(B) Amtrak State-supported train services.";

(iv) in subparagraph (C), by striking "routes" and inserting "train services"; and

(v) by adding at the end the following:

"(E) Infrastructure access services for use of Amtrak-owned or Amtrak-controlled infrastructure and facilities.";

(C) in paragraph (2)—

(i) in the paragraph heading, by striking "BUSINESS" and inserting "SERVICE";

(ii) by striking "business" each place such term appears and inserting "service";

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(iii) in subparagraph (A), by striking "Strategic Plan and 5-year asset plans" and inserting "5-year asset line plans";

(iv) in subparagraph (F) (as redesignated by section 22204(b)(1)), by striking "profit and loss" and inserting "sources and uses";

(v) by striking subparagraph (G) (as redesignated by section 22204(b)(1));

(vi) by redesignating subparagraphs (H) through (M) (as redesignated by section 22204(b)(1)) as subparagraphs (G) through (L), respectively; and

(vii) by amending subparagraph (I) (as so redesignated) to read as follows:

"(I) financial performance for each route, if deemed applicable by the Secretary, within each service line, including descriptions of the cash operating loss or contribution;";

(D) in paragraph (3)—

(i) in the paragraph heading, by striking "BUSINESS" and inserting "SERVICE";

(ii) by striking "business" each place such term appears and inserting "service";

(iii) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively, and moving such clauses 2 ems to the right;

(iv) by inserting before clause (i), as redesignated, the following:

"(A) not later than 180 days after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, submit to the Secretary, for approval, a consultation process for the development of each service line plan that requires Amtrak to—";

(v) in subparagraph (A), as amended by clause (iv)—

(I) in clause (iii), as redesignated, by inserting "and submit the final service line plan required under subsection (a)(1) to the State-Supported Route Committee" before the semicolon at the end;

(II) in clause (iv), as redesignated, by inserting "and" after the semicolon at the end; and

(III) by adding at the end the following:

"(v) for the infrastructure access service line plan, consult with the Northeast Corridor Commission and other entities, as appropriate, and submit the final asset line plan under subsection (a)(1) to the Northeast Corridor Commission;"; and

(vi) by redesignating subparagraphs (E) and (F) as subparagraphs (B) and (C), respectively;

(E) by redesignating paragraph (4) as paragraph (5); and

(F) by inserting after paragraph (3)(C), as redesignated, the following:

"(4) 5-YEAR SERVICE LINE PLANS UPDATES.—Amtrak may modify the content to be included in the service line plans described in paragraph (1), upon the approval of the Secretary, if the Secretary determines that such modifications are necessary to improve the transparency, oversight, and delivery

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of Amtrak services and the use of Federal funds by Amtrak."; and

(4) in subsection (c)—

(A) in the subsection heading, by inserting "LINE" after "ASSET";

(B) in paragraph (1)—

(i) in the paragraph heading, by striking "CATEGORIES" and inserting "LINES";

(ii) in the matter preceding subparagraph (A), by striking "asset plan for each of the following asset categories" and inserting "asset line plan for each of the following asset lines";

(iii) by redesignating subparagraphs (A), (B), (C), and (D) as subparagraphs (B), (C), (D), and (E), respectively;

(iv) by inserting before subparagraph (B), as redesignated, the following:

"(A) Transportation, including activities and resources associated with the operation and movement of Amtrak trains, onboard services, and amenities.";

(v) in subparagraph (B), as redesignated, by inserting "and maintenance-of-way equipment" after "facilities"; and

(vi) in subparagraph (C), as redesignated, by striking "Passenger rail equipment" and inserting "Equipment";

(C) in paragraph (2)—

(i) in the paragraph heading, by inserting "LINE" after "ASSET";

(ii) in the matter preceding subparagraph (A), by inserting "line" after "asset";

(iii) in subparagraph (A), by striking "category" and inserting "line";

(iv) in subparagraph (C)(iii)(III), by striking "and" at the end;

(v) by amending subparagraph (D) to read as follows:

"(D) annual sources and uses statements and forecasts for each asset line; and"; and

(vi) by adding at the end the following:

"(E) other elements that Amtrak elects to include.";

(D) in paragraph (3)—

(i) in the paragraph heading, by inserting "LINE" after "ASSET";

(ii) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii) and moving such clauses 2 ems to the right;

(iii) by inserting before clause (i), as redesignated, the following:

"(A) not later than 180 days after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, submit to the Secretary, for approval, a consultation process for the development of each asset line plan that requires Amtrak to—";

(iv) in subparagraph (A), as added by clause (iii)—

(I) in clause (i), as redesignated—

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(aa) by striking "business" each place such term appears and inserting "service";

(bb) by inserting "line" after "asset" each place such term appears; and

(cc) by adding "and" at the end; and

(II) in clause (ii), as redesignated—

(aa) by inserting "consult with the Secretary of Transportation in the development of asset line plans and," before "as applicable"; and

(bb) by inserting "line" after "5-year asset";

(v) by redesignating subparagraph (C) as subparagraph (B); and

(vi) in subparagraph (B), as redesignated, by striking "category" and inserting "line";

(E) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively;

(F) by inserting after paragraph (3) the following:

"(4) 5-YEAR ASSET LINE PLAN UPDATES.—Amtrak may modify the content to be included in the asset line plans described in paragraph (1), on approval of the Secretary, if the Secretary determines that such modifications are necessary to improve the transparency, oversight, and delivery of Amtrak services and the use of Federal funds by Amtrak.";

(G) in paragraph (5)(A), as redesignated, by inserting ", but shall not include corporate services (as defined pursuant to section 24317(b))" after "national assets"; and

(H) in paragraph (7), as redesignated, by striking "paragraph (4)" and inserting "paragraph (5)".

(b) CLERICAL AMENDMENT.—The analysis for chapter 243 of title 49, United States Code, is amended by striking the item relating to section 24320 and inserting the following:

"24320. Amtrak 5-year service line and asset line plans.".

(c) EFFECTIVE DATES.—Section 11203(b) of the Passenger Rail Reform and Investment Act of 2015 (49 U.S.C. 24320 note) is amended—

(1) by striking "business" each place such term appears and inserting "service"; and

(2) by inserting "line" after "asset" each place such term appears.

SEC. 22208. PASSENGER EXPERIENCE ENHANCEMENT.

(a) IN GENERAL.—Section 24305(c)(4) of title 49, United States Code, is amended by striking "only if revenues from the services each year at least equal the cost of providing the services".

(b) FOOD AND BEVERAGE SERVICE WORKING GROUP.—

(1) IN GENERAL.—Section 24321 of title 49, United States Code, is amended to read as follows:

"§ 24321. Food and beverage service

"(a) WORKING GROUP.—

"(1) ESTABLISHMENT.—Not later than 180 days after enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, Amtrak shall establish a working group to provide recommendations to improve Amtrak's onboard food and beverage service.

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"(2) MEMBERSHIP.—The working group shall consist of individuals representing—

"(A) Amtrak;

"(B) the labor organizations representing Amtrak employees who prepare or provide on-board food and beverage service;

"(C) nonprofit organizations representing Amtrak passengers; and

"(D) States that are providing funding for State-supported routes.

"(b) REPORT.—Not later than 1 year after the establishment of the working group pursuant to subsection (a), the working group shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives containing recommendations for improving Amtrak's food and beverage service, including—

"(1) ways to improve the financial performance of Amtrak;

"(2) ways to increase and retain ridership;

"(3) the differing needs of passengers traveling on long-distance routes, State supported routes, and the Northeast Corridor;

"(4) Amtrak passenger survey data about the food and beverages offered on Amtrak trains;

"(5) ways to incorporate local food and beverage items on State-supported routes; and

"(6) any other issue that the working group determines to be appropriate.

"(c) IMPLEMENTATION.—Not later than 180 days after the submission of the report pursuant to subsection (b), Amtrak shall submit a plan for implementing the recommendations of the working group, and an explanation for any of the working group's recommendations it does not agree with and does not plan on implementing to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

"(d) SAVINGS CLAUSE.—Amtrak shall ensure that no Amtrak employee who held a position on a long-distance or Northeast Corridor route as of the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, is involuntarily separated because of the development and implementation of the plan required under this section.".

(2) CLERICAL AMENDMENT.—The analysis for chapter 243 of title 49, United States Code, is amended by striking the item relating to section 24321 and inserting the following:

"24321. Food and beverage service.".

SEC. 22209. AMTRAK SMOKING POLICY.

(a) IN GENERAL.—Chapter 243 of title 49, United States Code, is amended by adding at the end the following:

"§ 24323. Prohibition on smoking on Amtrak trains

"(a) PROHIBITION.—Beginning on the date of enactment of this section, Amtrak shall prohibit smoking, including the use of electronic cigarettes, onboard all Amtrak trains.

"(b) ELECTRONIC CIGARETTE DEFINED.—In this section, the term 'electronic cigarette' means a device that delivers nicotine or other

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substances to a user of the device in the form of a vapor that is inhaled to simulate the experience of smoking.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 243 of title 49, United States Code, is amended by adding at the end the following:

"24323. Prohibition on smoking on Amtrak trains.".

SEC. 22210. PROTECTING AMTRAK ROUTES THROUGH RURAL COMMUNITIES.

Section 24706 of title 49, United States Code, is amended—

(1) in subsection (a), by striking "subsection (b) of this section, at least 180 days" and inserting "subsection (c), not later than 180 days";

(2) by redesignating subsections (b) and (c) as subsections (c) and (e), respectively;

(3) by inserting after subsection (a) the following:

"(b) DISCONTINUANCE OR SUBSTANTIAL ALTERATION OF LONG-DISTANCE ROUTES.—Except as provided in subsection (c), in an emergency, or during maintenance or construction outages impacting Amtrak routes, Amtrak may not discontinue, reduce the frequency of, suspend, or substantially alter the route of rail service on any segment of any long-distance route in any fiscal year in which Amtrak receives adequate Federal funding for such route on the National Network."; and

(4) by inserting after subsection (c), as redesignated, the following:

"(d) CONGRESSIONAL NOTIFICATION OF DISCONTINUANCE.—Except as provided in subsection (c), not later than 210 days before discontinuing service over a route, Amtrak shall give written notice of such discontinuance to all of the members of Congress representing any State or district in which the discontinuance would occur.".

SEC. 22211. STATE-SUPPORTED ROUTE COMMITTEE.

(a) STATE-SUPPORTED ROUTE COMMITTEE.—Section 24712(a) of title 49, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "Not later than 180 days after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, the Secretary of Transportation shall establish" and inserting "There is established"; and

(B) by inserting "current and future" before "rail operations";

(2) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively;

(3) by inserting after paragraph (3) the following:

"(4) ABILITY TO CONDUCT CERTAIN BUSINESS.—If all of the members of 1 voting bloc described in paragraph (3) abstain from a Committee decision, agreement between the other 2 voting blocs consistent with the procedures set forth in such paragraph shall be deemed sufficient for purpose of achieving unanimous consent.";

(4) in paragraph (5), as redesignated, in the matter preceding subparagraph (A)—

(A) by striking "convene a meeting and shall define and implement" and inserting "define and periodically update"; and

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(B) by striking "not later than 180 days after the date of establishment of the Committee by the Secretary"; and

(5) in paragraph (7), as redesignated—

(A) in the paragraph heading, by striking "ALLOCATION METHODOLOGY" and inserting "METHODOLOGY POLICY";

(B) in subparagraph (A), by striking "allocation methodology" and inserting "methodology policy";

(C) by amending subparagraph (B) to read as follows:

"(B) REVISIONS TO COST METHODOLOGY POLICY.—

"(i) REQUIREMENT TO REVISE AND UPDATE.—Subject to rules and procedures established pursuant to clause (iii), not later than March 31, 2022, the Committee shall revise and update the cost methodology policy required and previously approved under section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 20901 note). The Committee shall implement a revised cost methodology policy during fiscal year 2023. Not later than 30 days after the adoption of the revised cost methodology policy, the Committee shall submit a report documenting and explaining any changes to the cost methodology policy and plans for implementation of such policy, including a description of the improvements to the accounting information provided by Amtrak to the States, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The revised cost methodology policy shall ensure that States will be responsible for costs attributable to the provision of service for their routes.

"(ii) IMPLEMENTATION IMPACTS ON FEDERAL FUNDING.—To the extent that a revision developed pursuant to clause (i) assigns to Amtrak costs that were previously allocated to States, Amtrak shall request with specificity such additional funding in the general and legislative annual report required under section 24315 or in any appropriate subsequent Federal funding request for the fiscal year in which the revised cost methodology policy will be implemented.

"(iii) PROCEDURES FOR CHANGING METHODOLOGY.—Notwithstanding section 209(b) of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 20901 note), the rules and procedures implemented pursuant to paragraph (5) shall include—

"(I) procedures for changing the cost methodology policy in accordance with clause (i); and

"(II) procedures or broad guidelines for conducting financial planning, including operating and capital forecasting, reporting, data sharing, and governance.";

(D) in subparagraph (C)—

(i) in the matter preceding clause (i), by striking "allocation methodology" and inserting "methodology policy";

(ii) in clause (i), by striking "and" at the end;

(iii) in clause (ii)—

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(I) by striking "allocate" and inserting "assign"; and

(II) by striking the period and inserting "; and"; and

(iv) by adding at the end the following:

"(iii) promote increased efficiency in Amtrak's operating and capital activities."; and

(E) by adding at the end the following:

"(D) INDEPENDENT EVALUATION.—Not later than March 31 of each year, the Committee shall ensure that an independent entity selected by the Committee has completed an evaluation to determine whether State payments for the most recently concluded fiscal year are accurate and comply with the applicable cost allocation methodology.".

(b) INVOICES AND REPORTS.—Section 24712(b) of title 49, United States Code, is amended to read as follows:

"(b) INVOICES AND REPORTS.—

"(1) INVOICES.—Amtrak shall provide monthly invoices to the Committee and to each State that sponsors a State-supported route that identify the operating costs for such route, including fixed costs and third-party costs.

"(2) REPORTS.—

"(A) IN GENERAL.—The Committee shall determine the frequency and contents of—

"(i) the financial and performance reports that Amtrak is required to provide to the Committee and the States; and

"(ii) the planning and demand reports that the States are required to provide to the Committee and Amtrak.

"(B) MONTHLY STATISTICAL REPORT.—

"(i) DEVELOPMENT.—Consistent with the revisions to the policy required under subsection (a)(7)(B), the Committee shall develop a report that contains the general ledger data and operating statistics from Amtrak's accounting systems used to calculate payments to States.

"(ii) PROVISION OF NECESSARY DATA.—Not later than 30 days after the last day of each month, Amtrak shall provide to the States and to the Committee the necessary data to complete the report developed pursuant to clause (i) for such month.".

(c) DISPUTE RESOLUTION.—Section 24712(c) of title 49, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "(a)(4)" and inserting "(a)(5)"; and

(B) by striking "(a)(6)" and inserting "(a)(7)"; and

(2) in paragraph (4), by inserting "related to a State-supported route that a State sponsors that is" after "amount".

(d) PERFORMANCE METRICS.—Section 24712(e) of title 49, United States Code, is amended by inserting ", including incentives to increase revenue, reduce costs, finalize contracts by the beginning of the fiscal year, and require States to promptly make payments for services delivered" before the period at the end.

(e) STATEMENT OF GOALS AND OBJECTIVES.—Section 24712(f) of title 49, United States Code, is amended—

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(1) in paragraph (1), by inserting ", and review and update, as necessary," after "shall develop";

(2) in paragraph (2), by striking "Not later than 2 years after the date of enactment of the Passenger Rail Reform and Investment Act of 2015, the Committee shall transmit the statement" and inserting "As applicable, based on updates, the Committee shall submit an updated statement"; and

(3) by adding at the end the following:

"(3) SENSE OF CONGRESS.—It is the sense of Congress that—

"(A) the Committee shall be the forum where Amtrak and the States collaborate on the planning, improvement, and development of corridor routes across the National Network; and

"(B) such collaboration should include regular consultation with interstate rail compact parties and other regional planning organizations that address passenger rail.".

(f) OTHER REFORMS RELATED TO STATE-SUPPORTED ROUTES.—Section 24712 of title 49, United States Code, as amended by subsections (a) through (e), is further amended—

(1) by redesignating subsections (g) and (h) as subsections (k) and (l), respectively; and

(2) by inserting after subsection (f) the following:

"(g) NEW STATE-SUPPORTED ROUTES.—

"(1) CONSULTATION.—In developing a new State-supported route, Amtrak shall consult with—

"(A) the State or States and local municipalities through which such new service would operate;

"(B) commuter authorities and regional transportation authorities in the areas that would be served by the planned route;

"(C) host railroads;

"(D) the Administrator of the Federal Railroad Administration; and

"(E) other stakeholders, as appropriate.

"(2) STATE COMMITMENTS.—Notwithstanding any other provision of law, before beginning construction necessary for, or beginning operation of, a State-supported route that is initiated on or after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, Amtrak shall enter into a memorandum of understanding, or otherwise secure an agreement, with each State that would be providing funding for such route for sharing—

"(A) ongoing operating costs and capital costs in accordance with the cost methodology policy referred to in subsection (a)(7) then in effect; or

"(B) ongoing operating costs and capital costs in accordance with the maximum funding limitations described in section 22908(e).

"(3) APPLICATION OF TERMS.—In this subsection, the terms 'capital costs' and 'operating costs' shall apply in the same manner as such terms apply under the cost methodology policy developed pursuant to subsection (a)(7).

"(h) COST METHODOLOGY POLICY UPDATE IMPLEMENTATION REPORT.—Not later than 18 months after the updated cost methodology policy required under subsection (a)(7)(B) is implemented,

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the Committee shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that assesses the implementation of the updated policy.

"(i) IDENTIFICATION OF STATE-SUPPORTED ROUTE CHANGES.—Amtrak shall—

"(1) not later than 120 days before the submission of the general and legislative annual report required under section 24315(b), consult with the Committee and any additional States through which a State-supported route may operate regarding any proposed changes to such route; and

"(2) include in such report an update of any planned or proposed changes to State-supported routes, including the introduction of new State-supported routes, including—

"(A) the timeframe in which such changes would take effect; and

"(B) whether Amtrak has entered into commitments with the affected States pursuant subsection (g)(2).

"(j) ECONOMIC ANALYSIS.—Not later than 3 years after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, the Committee shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that—

"(1) describes the role of the State-supported routes in economic development; and

"(2) examines the impacts of the State-supported routes on local station areas, job creation, transportation efficiency, State economies, and the national economy.".

SEC. 22212. ENHANCING CROSS BORDER SERVICE.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, Amtrak, after consultation with the Secretary, the Secretary of Homeland Security, relevant State departments of transportation, Canadian governmental agencies and entities, and owners of the relevant rail infrastructure and facilities, shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives regarding enhancing Amtrak passenger rail service between the United States and Canada that—

(1) identifies challenges to Amtrak operations in Canada, including delays associated with custom and immigration inspections in both the United States and Canada; and

(2) includes recommendations to improve such cross border service, including the feasibility of and costs associated with a preclearance facility or facilities.

(b) ASSISTANCE AND SUPPORT.—The Secretary, the Secretary of State, and the Secretary of Homeland Security may provide assistance and support requested by Amtrak that is necessary to carry out this section, as determined appropriate by the respective Secretary.

SEC. 22213. CREATING QUALITY JOBS.

Section 121 of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24312 note) is amended—

(1) by redesignating subsection (d) as subsection (f); and

(2) by inserting after subsection (c) the following:

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"(d) FURLOUGHED WORK.—Amtrak may not contract out work within the classification of work performed by an employee in a bargaining unit covered by a collective bargaining agreement entered into between Amtrak and an organization representing Amtrak employees during the period such employee has been laid off and has not been recalled to perform such work.

"(e) AGREEMENT PROHIBITIONS ON CONTRACTING OUT.—This section does not—

"(1) supersede a prohibition or limitation on contracting out work covered by an agreement entered into between Amtrak and an organization representing Amtrak employees; or

"(2) prohibit Amtrak and an organization representing Amtrak employees from entering into an agreement that allows for contracting out the work of a furloughed employee that would otherwise be prohibited under subsection (d).".

SEC. 22214. AMTRAK DAILY LONG-DISTANCE SERVICE STUDY.

(a) IN GENERAL.—The Secretary shall conduct a study to evaluate the restoration of daily intercity rail passenger service along—

(1) any Amtrak long-distance routes that, as of the date of enactment of this Act, were discontinued; and

(2) any Amtrak long-distance routes that, as of the date of enactment of this Act, occur on a nondaily basis.

(b) INCLUSIONS.—The study under subsection (a) shall—

(1) evaluate all options for restoring or enhancing to daily-basis intercity rail passenger service along each Amtrak route described in that subsection;

(2) select a preferred option for restoring or enhancing the service described in paragraph (1);

(3) develop a prioritized inventory of capital projects and other actions that are required to restore or enhance the service described in paragraph (1), including cost estimates for those projects and actions;

(4) develop recommendations for methods by which Amtrak could work with local communities and organizations to develop activities and programs to continuously improve public use of intercity passenger rail service along each route; and

(5) identify Federal and non-Federal funding sources required to restore or enhance the service described in paragraph (1), including—

(A) increased Federal funding for Amtrak based on applicable reductions or discontinuations in service; and

(B) options for entering into public-private partnerships to restore that service.

(c) OTHER FACTORS WHEN CONSIDERING EXPANSIONS.—In evaluating intercity passenger rail routes under this section, the Secretary may evaluate potential new Amtrak long-distance routes, including with specific attention provided to routes in service as of April 1971 but not continued by Amtrak, taking into consideration whether those new routes would—

(1) link and serve large and small communities as part of a regional rail network;

(2) advance the economic and social well-being of rural areas of the United States;

(3) provide enhanced connectivity for the national long-distance passenger rail system; and

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(4) reflect public engagement and local and regional support for restored passenger rail service.

(d) CONSULTATION.—In conducting the study under this section, the Secretary shall consult, through working groups or other forums as the Secretary determines to be appropriate, with—

(1) Amtrak;

(2) each State along a relevant route;

(3) regional transportation planning organizations and metropolitan planning organizations, municipalities, and communities along those relevant routes, to be selected by the Secretary;

(4) host railroad carriers the tracks of which may be used for a service described in subsection (a);

(5) organizations representing onboard Amtrak employees;

(6) nonprofit organizations representing Amtrak passengers;

(7) relevant regional passenger rail authorities and federally recognized Indian Tribes; and

(8) such other entities as the Secretary may select.

(e) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that includes—

(1) the preferred options selected under subsection (b)(2), including the reasons for selecting each option;

(2) the information described in subsection (b)(3);

(3) the funding sources identified pursuant to subsection (b)(5);

(4) the estimated costs and public benefits of restoring or enhancing intercity rail passenger transportation in the region impacted for each relevant Amtrak route; and

(5) any other information the Secretary determines to be appropriate.

(f) FUNDING.—There are authorized to be appropriated to the Secretary to conduct the study under this section and to carry out the consultations required by subsection (d)—

(1) $7,500,000 for fiscal year 2022; and

(2) $7,500,000 for fiscal year 2023.

Subtitle C—Intercity Passenger Rail Policy

SEC. 22301. NORTHEAST CORRIDOR PLANNING.

Section 24904 of title 49, United States Code, is amended—

(1) by striking subsections (a) and (d);

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(3) by inserting before subsection (c), as redesignated, the following:

"(a) NORTHEAST CORRIDOR SERVICE DEVELOPMENT PLAN.—

"(1) IN GENERAL.—Not later than March 31, 2022, the Northeast Corridor Commission established under section 24905 (referred to in this section as the 'Commission') shall submit a service development plan to Congress.

"(2) CONTENTS.—The plan required under paragraph (1) shall—

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"(A) identify key state-of-good-repair, capacity expansion, and capital improvement projects planned for the Northeast Corridor;

"(B) provide a coordinated and consensus-based plan covering a 15-year period;

"(C) identify service objectives and the capital investments required to meet such objectives;

"(D) provide a delivery-constrained strategy that identifies—

"(i) capital investment phasing;

"(ii) an evaluation of workforce needs; and

"(iii) strategies for managing resources and mitigating construction impacts on operations; and

"(E) include a financial strategy that identifies funding needs and potential funding sources.

"(3) UPDATES.—The Commission shall update the service development plan not less frequently than once every 5 years.

"(b) NORTHEAST CORRIDOR CAPITAL INVESTMENT PLAN.—

"(1) IN GENERAL.—Not later than November 1 of each year, the Commission shall—

"(A) develop an annual capital investment plan for the Northeast Corridor; and

"(B) submit the capital investment plan to—

"(i) the Secretary of Transportation;

"(ii) the Committee on Commerce, Science, and Transportation of the Senate; and

"(iii) the Committee on Transportation and Infrastructure of the House of Representatives.

"(2) CONTENTS.—The plan required under paragraph (1) shall—

"(A) reflect coordination across the entire Northeast Corridor;

"(B) integrate the individual capital plans developed by Amtrak, States, and commuter authorities in accordance with the cost allocation policy developed and approved under section 24905(c);

"(C) cover a period of 5 fiscal years, beginning with the fiscal year during which the plan is submitted;

"(D) notwithstanding section 24902(b), document the projects and programs being undertaken to advance the service objectives and capital investments identified in the Northeast Corridor service development plan developed under subsection (a), and the asset condition needs identified in the Northeast Corridor asset management plans, after considering—

"(i) the benefits and costs of capital investments in the plan;

"(ii) project and program readiness;

"(iii) the operational impacts; and

"(iv) Federal and non-Federal funding availability;

"(E) categorize capital projects and programs as primarily associated with 1 of the categories listed under section 24319(c)(2)(C);

"(F) identify capital projects and programs that are associated with more than 1 category described in subparagraph (E); and

"(G) include a financial plan that identifies—

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"(i) funding sources and financing methods;

"(ii) the status of cost sharing agreements pursuant to the cost allocation policy developed under section 24905(c);

"(iii) the projects and programs that the Commission expects will receive Federal financial assistance; and

"(iv) the eligible entity or entities that the Commission expects—

"(I) to receive the Federal financial assistance referred to in clause (iii); and

"(II) to implement each capital project.

"(3) REVIEW AND COORDINATION.—The Commission shall require that the information described in paragraph (2) be submitted in a timely manner to allow for a reasonable period of review by, and coordination with, affected agencies before the Commission submits the capital investment plan pursuant to paragraph (1).";

(4) in subsection (c), as redesignated, by striking "spent only on—" and all that follows and inserting "spent only on capital projects and programs contained in the Commission's capital investment plan for the prior fiscal year."; and

(5) by amending subsection (d), as redesignated, to read as follows:

"(d) NORTHEAST CORRIDOR CAPITAL ASSET MANAGEMENT SYSTEM.—

"(1) IN GENERAL.—Amtrak and other infrastructure owners that provide or support intercity rail passenger transportation along the Northeast Corridor shall develop an asset management system and use and update such system, as necessary, to develop submissions to the Northeast Corridor capital investment plan described in subsection (b).

"(2) FEATURES.—The system required under paragraph (1) shall develop submissions that—

"(A) are consistent with the transit asset management system (as defined in section 5326(a)(3)); and

"(B) include—

"(i) an inventory of all capital assets owned by the developer of the plan;

"(ii) an assessment of condition of such capital assets;

"(iii) a description of the resources and processes that will be necessary to bring or to maintain such capital assets in a state of good repair; and

"(iv) a description of changes in the condition of such capital assets since the submission of the prior version of the plan.".

SEC. 22302. NORTHEAST CORRIDOR COMMISSION.

Section 24905 of title 49, United States Code, is amended—

(1) in subsection (a)(1)(D), by inserting "authorities" after "carriers";

(2) in subsection (b)(3)(B)—

(A) in clause (i)—

(i) by inserting ", including ridership trends," after "transportation"; and

(ii) by striking "and" at the end;

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(B) in clause (ii)—

(i) by inserting "first year of the" after "the delivery of the"; and

(ii) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(iii) progress in assessing and eliminating the state-of-good-repair backlog.";

(3) in subsection (c)—

(A) in paragraph (1)—

(i) in the paragraph heading, by striking "DEVELOPMENT OF POLICY" and inserting "POLICY";

(ii) in subparagraph (A), by striking "develop a standardized policy" and inserting "develop and maintain the standardized policy first approved on September 17, 2015, and update, as appropriate,";

(iii) by amending subparagraph (B) to read as follows:

"(B) develop timetables for implementing and maintaining the policy;";

(iv) in subparagraph (C), by striking "the policy and the timetable" and inserting "updates to the policy and timetables"; and

(v) by amending subparagraph (D) to read as follows:

"(D) support the efforts of the members of the Commission to implement the policy in accordance with the timetables developed pursuant to subparagraph (B);";

(B) by amending paragraph (2) to read as follows: "(2) IMPLEMENTATION.—

"(A) IN GENERAL.—In accordance with the timetables developed pursuant to paragraph (1)(B), Amtrak and commuter authorities on the Northeast Corridor shall implement the policy developed under paragraph (1) in their agreements for usage of facilities or services.

"(B) EFFECT OF FAILURE TO IMPLEMENT OR COMPLY WITH POLICY.—If the entities referred to in subparagraph (A) fail to implement the policy in accordance with paragraph (1)(D) or fail to comply with the policy thereafter, the Surface Transportation Board shall—

"(i) determine the appropriate compensation in accordance with the procedures and procedural schedule applicable to a proceeding under section 24903(c), after taking into consideration the policy developed under paragraph (1); and

"(ii) enforce its determination on the party or parties involved."; and

(C) in paragraph (4), by striking "public authorities providing commuter rail passenger transportation" and inserting "commuter authorities"; and

(4) in subsection (d)—

(A) by striking "2016 through 2020" and inserting "2022 through 2026"; and

(B) by striking "section 11101(g) of the Passenger Rail Reform and Investment Act of 2015" and inserting "section 22101(e) of the Passenger Rail Expansion and Rail Safety Act of 2021".

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SEC. 22303. CONSOLIDATED RAIL INFRASTRUCTURE AND SAFETY IMPROVEMENTS.

(a) IN GENERAL.—Section 22907 of title 49, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by inserting "(including the District of Columbia)" after "State";

(B) in paragraph (6), by inserting "rail carrier and intercity rail passenger transportation are" before "defined";

(C) by redesignating paragraphs (8) through (11) as paragraphs (10) through (13), respectively; and

(D) by inserting after paragraph (7) the following:

"(8) An association representing 1 or more railroads described in paragraph (7).";

"(9) A federally recognized Indian Tribe.";

(2) in subsection (c)—

(A) in paragraph (3), by adding "or safety" after "congestion";

(B) in paragraph (6), by striking "and" and inserting "or";

(C) by redesignating paragraphs (11) and (12) as paragraphs (12) and (13), respectively;

(D) by inserting after paragraph (10) the following:

"(11) The development and implementation of measures to prevent trespassing and reduce associated injuries and fatalities."; and

(E) by inserting after paragraph (13), as redesignated, the following:

"(14) Research, development, and testing to advance and facilitate innovative rail projects, including projects using electromagnetic guideways in an enclosure in a very low-pressure environment.

"(15) The preparation of emergency plans for communities through which hazardous materials are transported by rail.

"(16) Rehabilitating, remanufacturing, procuring, or overhauling locomotives, provided that such activities result in a significant reduction of emissions."; and

(3) in subsection (h), by adding at the end the following:

"(4) GRADE CROSSING AND TRESPASSING PROJECTS.—Applicants may use costs incurred previously for preliminary engineering associated with highway-rail grade crossing improvement projects under subsection (c)(5) and trespassing prevention projects under subsection (c)(11) to satisfy the non-Federal share requirements.".

(b) RULE OF CONSTRUCTION.—The amendments made by subsection (a) may not be construed to affect any grant, including any application for a grant, made under section 22907 of title 49, United States Code, before the date of enactment of this Act.

(c) TECHNICAL CORRECTION.—

(1) IN GENERAL.—Section 22907(l)(1)(A) of title 49, United States Code, is amended by inserting ", including highway construction over rail facilities as an alternative to construction or improvement of a highway-rail grade crossing," after "under chapter 227".

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to amounts remaining under section 22907(l)

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of title 49, United States Code, from appropriations for prior fiscal years.

SEC. 22304. RESTORATION AND ENHANCEMENT GRANTS.

Section 22908 of title 49, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) DEFINITIONS.—In this section:

"(1) APPLICANT.—Notwithstanding section 22901(1), the term 'applicant' means—

"(A) a State, including the District of Columbia;

"(B) a group of States;

"(C) an entity implementing an interstate compact;

"(D) a public agency or publicly chartered authority established by 1 or more States;

"(E) a political subdivision of a State;

"(F) a federally recognized Indian Tribe;

"(G) Amtrak or another rail carrier that provides intercity rail passenger transportation;

"(H) any rail carrier in partnership with at least 1 of the entities described in subparagraphs (A) through (F); and

"(I) any combination of the entities described in subparagraphs (A) through (F).

"(2) OPERATING ASSISTANCE.—The term 'operating assistance', with respect to any route subject to section 209 of the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110–432), means any cost allocated, or that may be allocated, to a route pursuant to the cost methodology established under such section or under section 24712.";

(2) in subsection (c)(3), by striking "3 years" each place such term appears and inserting "6 years";

(3) in subsection (d)—

(A) in paragraph (8), by striking "and";

(B) in paragraph (9), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(10) for routes selected under the Corridor Identification and Development Program and operated by Amtrak."; and

(4) in subsection (e)—

(A) in paragraph (1)—

(i) by striking "assistance"; and

(ii) by striking "3 years" and inserting "6 years (including for any such routes selected for funding before the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021)"; and

(B) in paragraph (3), by striking subparagraphs (A), (B), and (C) and inserting the following:

"(A) 90 percent of the projected net operating costs for the first year of service;

"(B) 80 percent of the projected net operating costs for the second year of service;

"(C) 70 percent of the projected net operating costs for the third year of service;

"(D) 60 percent of the projected net operating costs for the fourth year of service;

"(E) 50 percent of the projected net operating costs for the fifth year of service; and

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"(F) 30 percent of the projected net operating costs for the sixth year of service.".

SEC. 22305. RAILROAD CROSSING ELIMINATION PROGRAM.

(a) IN GENERAL.—Chapter 229 of title 49, United States Code, is amended by adding at the end the following:

"§ 22909. Railroad Crossing Elimination Program

"(a) IN GENERAL.—The Secretary of Transportation, in cooperation with the Administrator of the Federal Railroad Administration, shall establish a competitive grant program (referred to in this section as the 'Program') under which the Secretary shall award grants to eligible recipients described in subsection (c) for highway-rail or pathway-rail grade crossing improvement projects that focus on improving the safety and mobility of people and goods.

"(b) GOALS.—The goals of the Program are—

"(1) to eliminate highway-rail grade crossings that are frequently blocked by trains;

"(2) to improve the health and safety of communities;

"(3) to reduce the impacts that freight movement and railroad operations may have on underserved communities; and

"(4) to improve the mobility of people and goods.

"(c) ELIGIBLE RECIPIENTS.—The following entities are eligible to receive a grant under this section:

"(1) A State, including the District of Columbia, Puerto Rico, and other United States territories and possessions.

"(2) A political subdivision of a State.

"(3) A federally recognized Indian Tribe.

"(4) A unit of local government or a group of local governments.

"(5) A public port authority.

"(6) A metropolitan planning organization.

"(7) A group of entities described in any of paragraphs (1) through (6).

"(d) ELIGIBLE PROJECTS.—The Secretary may award a grant under the Program for a highway-rail or pathway-rail grade crossing improvement project (including acquiring real property interests) involving—

"(1) grade separation or closure, including through the use of a bridge, embankment, tunnel, or combination thereof;

"(2) track relocation;

"(3) the improvement or installation of protective devices, signals, signs, or other measures to improve safety, provided that such activities are related to a separation or relocation project described in paragraph (1) or (2);

"(4) other means to improve the safety and mobility of people and goods at highway-rail grade crossings (including technological solutions);

"(5) a group of related projects described in paragraphs (1) through (4) that would collectively improve the mobility of people and goods; or

"(6) the planning, environmental review, and design of an eligible project described in paragraphs (1) through (5).

"(e) APPLICATION PROCESS.—

"(1) IN GENERAL.—An eligible entity seeking a grant under the Program shall submit an application to the Secretary at

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such time, in such manner, and containing such information as the Secretary may require.

"(2) RAILROAD APPROVALS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall require applicants to obtain the necessary approvals from any impacted rail carriers or real property owners before proceeding with the construction of a project funded by a grant under the Program.

"(B) EXCEPTION.—The requirement under subparagraph (A) shall not apply to planning projects described in subsection (d)(6) if the applicant agrees to work collaboratively with rail carriers and right-of-way owners.

"(f) PROJECT SELECTION CRITERIA.—

"(1) IN GENERAL.—In awarding grants under the Program, the Secretary shall evaluate the extent to which proposed projects would—

"(A) improve safety at highway-rail or pathway-rail grade crossings;

"(B) grade separate, eliminate, or close highway-rail or pathway-rail grade crossings;

"(C) improve the mobility of people and goods;

"(D) reduce emissions, protect the environment, and provide community benefits, including noise reduction;

"(E) improve access to emergency services;

"(F) provide economic benefits; and

"(G) improve access to communities separated by rail crossings.

"(2) ADDITIONAL CONSIDERATIONS.—In awarding grants under the Program, the Secretary shall consider—

"(A) the degree to which the proposed project will use—

"(i) innovative technologies;

"(ii) innovative design and construction techniques; or

"(iii) construction materials that reduce greenhouse gas emissions;

"(B) the applicant's planned use of contracting incentives to employ local labor, to the extent permissible under Federal law;

"(C) whether the proposed project will improve the mobility of—

"(i) multiple modes of transportation, including ingress and egress from freight facilities; or

"(ii) users of nonvehicular modes of transportation, such as pedestrians, bicyclists, and public transportation;

"(D) whether the proposed project is identified in—

"(i) the freight investment plan component of a State freight plan, as required under section 70202(b)(9);

"(ii) a State rail plan prepared in accordance with chapter 227; or

"(iii) a State highway-rail grade crossing action plan, as required under section 11401(b) of the Passenger Rail Reform and Investment Act of 2015 (title XI of Public Law 114–94); and

"(E) the level of financial support provided by impacted rail carriers.

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"(3) AWARD DISTRIBUTION.—In selecting grants for Program funds in any fiscal year, the Secretary shall comply with the following limitations:

"(A) GRANT FUNDS.—Not less than 20 percent of the grant funds available for the Program in any fiscal year shall be reserved for projects located in rural areas or on Tribal lands. The requirement under section 22907(l), which applies to this section, shall not apply to grant funds reserved specifically under this subparagraph. Not less than 5 percent of the grant funds reserved under this subparagraph shall be reserved for projects in counties with 20 or fewer residents per square mile, according to the most recent decennial census, provided that sufficient eligible applications have been submitted.

"(B) PLANNING GRANTS.—Not less than 25 percent of the grant funds set aside for planning projects in any fiscal year pursuant to section 22104(b) of the Passenger Rail Expansion and Rail Safety Act of 2021 shall be awarded for projects located in rural areas or on tribal lands.

"(C) STATE LIMITATION.—Not more than 20 percent of the grant funds available for the Program in any fiscal year may be selected for projects in any single State.

"(D) MINIMUM SIZE.—No grant awarded under this section shall be for less than $1,000,000, except for a planning grant described in subsection (d)(6).

"(g) COST SHARE.—Except as provided in paragraph (2), the Federal share of the cost of a project carried out using a grant under the Program may not exceed 80 percent of the total cost of the project. Applicants may count costs incurred for preliminary engineering associated with highway-rail and pathway-rail grade crossing improvement projects as part of the total project costs.

"(h) CONGRESSIONAL NOTIFICATION.—Not later than 3 days before awarding a grant for a project under the Program, the Secretary shall submit written notification of the proposed grant to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, which shall include—

"(1) a summary of the project; and

"(2) the amount of the proposed grant award.

"(i) ANNUAL REPORT.—Not later than 60 days after each round of award notifications, the Secretary shall post, on the public website of the Department of Transportation—

"(1) a list of all eligible applicants that submitted an application for funding under the Program during the current fiscal year;

"(2) a list of the grant recipients and projects that received grant funding under the Program during such fiscal year; and

"(3) a list of the proposed projects and applicants that were determined to be ineligible.

"(j) COMMUTER RAIL ELIGIBILITY AND GRANT CONDITIONS.—

"(1) IN GENERAL.—Section 22905(f) shall not apply to grants awarded under this section for commuter rail passenger transportation projects.

"(2) ADMINISTRATION OF FUNDS.—The Secretary of Transportation shall transfer amounts awarded under this section for commuter rail passenger transportation projects to

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the Federal Transit Administration, which shall administer such funds in accordance with chapter 53.

"(3) PROTECTIVE ARRANGEMENTS.—

"(A) IN GENERAL.—Notwithstanding paragraph (2) and section 22905(e)(1), as a condition of receiving a grant under this section, any employee covered by the Railway Labor Act (45 U.S.C. 151 et seq.) and the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.) who is adversely affected by actions taken in connection with the project financed in whole or in part by such grant shall be covered by employee protective arrangements required to be established under section 22905(c)(2)(B).

"(B) IMPLEMENTATION.—A grant recipient under this section, and the successors, assigns, and contractors of such grant recipient—

"(i) shall be bound by the employee protective arrangements required under subparagraph (A); and

"(ii) shall be responsible for the implementation of such arrangements and for the obligations under such arrangements, but may arrange for another entity to take initial responsibility for compliance with the conditions of such arrangement.

"(k) DEFINED TERM.—In this section, the term 'rural area' means any area that is not within an area designated as an urbanized area by the Bureau of the Census.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 229 of title 49, United States Code, is amended by adding at the end the following:

"22909. Railroad Crossing Elimination Program.".

SEC. 22306. INTERSTATE RAIL COMPACTS.

(a) IN GENERAL.—Chapter 229 of title 49, United States Code (as amended by section 22305(a)), is further amended by adding at the end the following:

"§ 22910. Interstate Rail Compacts Grant Program

"(a) GRANTS AUTHORIZED.—The Secretary of Transportation shall establish a competitive grant program to provide financial assistance to entities implementing interstate rail compacts pursuant to section 410 of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 note) for—

"(1) costs of administration;

"(2) systems planning, including studying the impacts on freight rail operations and ridership;

"(3) promotion of intercity passenger rail operation;

"(4) preparation of applications for competitive Federal grant programs; and

"(5) operations coordination.

"(b) MAXIMUM AMOUNT.—The Secretary may not award a grant under this section in an amount exceeding $1,000,000 per year.

"(c) SELECTION CRITERIA.—In selecting a recipient of a grant for an eligible project under this section, the Secretary shall consider—

"(1) the amount of funding received (including funding from a rail carrier (as defined in section 24102)) or other participation by State, local, and regional governments and the private sector;

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"(2) the applicant's work to foster economic development through rail service, particularly in rural communities;

"(3) whether the applicant seeks to restore service over routes formerly operated by Amtrak, including routes described in section 11304(a) of the Passenger Rail Reform and Investment Act of 2015 (title XI of division A of Public Law 114–94);

"(4) the applicant's dedication to providing intercity passenger rail service to regions and communities that are underserved or not served by other intercity public transportation;

"(5) whether the applicant is enhancing connectivity and geographic coverage of the existing national network of intercity passenger rail service;

"(6) whether the applicant has prepared regional rail or corridor service development plans and corresponding environmental analysis; and

"(7) whether the applicant has engaged with appropriate government entities and transportation providers to identify projects necessary to enhance multimodal connections or facilitate service integration between rail service and other modes, including between intercity passenger rail service and intercity bus service or commercial air service.

"(d) NUMERICAL LIMITATION.—The Secretary may not award grants under this section for more than 10 interstate rail compacts in any fiscal year.

"(e) OPERATOR LIMITATION.—The Secretary may only award grants under this section to applicants with eligible expenses related to intercity passenger rail service to be operated by Amtrak.

"(f) NON-FEDERAL MATCH.—The Secretary shall require each recipient of a grant under this section to provide a non-Federal match of not less than 50 percent of the eligible expenses of carrying out the interstate rail compact under this section.

"(g) REPORT.—Not later than 3 years after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, the Secretary, after consultation with grant recipients under this section, shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that describes—

"(1) the implementation of this section;

"(2) the status of the planning efforts and coordination funded by grants awarded under this section;

"(3) the plans of grant recipients for continued implementation of the interstate rail compacts;

"(4) the status of, and data regarding, any new, restored, or enhanced rail services initiated under the interstate rail compacts; and

"(5) any legislative recommendations.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 229 of title 49, United States Code (as amended by section 22305(b)), is amended by adding at the end the following:

"22910. Interstate Rail Compacts Grant Program.".

(c) IDENTIFICATION.—Section 410 of the Amtrak Reform and Accountability Act of 1997 (Public Law 105–134; 49 U.S.C. 24101 note) is amended—

(1) in subsection (b)(2), by striking "(except funds made available for Amtrak)"; and

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(2) by adding at the end the following:

"(c) NOTIFICATION REQUIREMENT.—Any State that enters into an interstate compact pursuant to subsection (a) shall notify the Secretary of Transportation of such compact not later than 60 days after it is formed. The failure of any State to notify the Secretary under this subsection shall not affect the status of the interstate compact.

"(d) INTERSTATE RAIL COMPACTS PROGRAM.—The Secretary of Transportation shall—

"(1) make available on a publicly accessible website a list of interstate rail compacts established under subsection (a) before the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021 and interstate rail compacts established after such date; and

"(2) make information regarding interstate rail compacts available to the public, including how States may establish interstate rail compacts under subsection (a), and update such information, as necessary.".

SEC. 22307. FEDERAL-STATE PARTNERSHIP FOR INTERCITY PASSENGER RAIL GRANTS.

(a) IN GENERAL.—Section 24911 of title 49, United States Code, is amended—

(1) in the section heading, by striking "**for state of good repair**" and inserting "**for intercity passenger rail**";

(2) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (F), by striking "or" at the end;

(ii) by redesignating subsection (G) as subsection (H);

(iii) by inserting after subparagraph (F), the following:

"(G) a federally recognized Indian Tribe; or"; and

(iv) in subsection (H), as redesignated, by striking "(F)" and inserting "(G)";

(B) by striking paragraphs (2) and (5); and

(C) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(3) in subsection (b), by striking "with respect to qualified railroad assets" and inserting ", improve performance, or expand or establish new intercity passenger rail service, including privately operated intercity passenger rail service if an eligible applicant is involved;";

(4) by striking subsections (c) through (e) and inserting the following:

"(c) ELIGIBLE PROJECTS.—The following capital projects, including acquisition of real property interests, are eligible to receive grants under this section:

"(1) A project to replace, rehabilitate, or repair infrastructure, equipment, or a facility used for providing intercity passenger rail service to bring such assets into a state of good repair.

"(2) A project to improve intercity passenger rail service performance, including reduced trip times, increased train frequencies, higher operating speeds, improved reliability,

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expanded capacity, reduced congestion, electrification, and other improvements, as determined by the Secretary.

"(3) A project to expand or establish new intercity passenger rail service.

"(4) A group of related projects described in paragraphs (1) through (3).

"(5) The planning, environmental studies, and final design for a project or group of projects described in paragraphs (1) through (4).

"(d) PROJECT SELECTION CRITERIA.—In selecting a project for funding under this section—

"(1) for projects located on the Northeast Corridor, the Secretary shall—

"(A) make selections consistent with the Northeast Corridor Project Inventory published pursuant to subsection (e)(1), unless when necessary to address materially changed infrastructure or service conditions, changes in project sponsor capabilities or commitments, or other significant changes since the completion of the most recently issued Northeast Corridor Project Inventory; and

"(B) for projects that benefit intercity and commuter rail services, only make such selections when Amtrak and the public authorities providing commuter rail passenger transportation at the eligible project location—

"(i) are in compliance with section 24905(c)(2); and

"(ii) identify funding for the intercity passenger rail share, the commuter rail share, and the local share of the eligible project before the commencement of the project;

"(2) for projects not located on the Northeast Corridor, the Secretary shall—

"(A) give preference to eligible projects—

"(i) for which Amtrak is not the sole applicant;

"(ii) that improve the financial performance, reliability, service frequency, or address the state of good repair of an Amtrak route; and

"(iii) that are identified in, and consistent with, a corridor inventory prepared under the Corridor Identification and Development Program pursuant to section 25101; and

"(B) take into account—

"(i) the cost-benefit analysis of the proposed project, including anticipated private and public benefits relative to the costs of the proposed project, including—

"(I) effects on system and service performance, including as measured by applicable metrics set forth in part 273 of title 49, Code of Federal Regulations (or successor regulations);

"(II) effects on safety, competitiveness, reliability, trip or transit time, greenhouse gas emissions, and resilience;

"(III) anticipated positive economic and employment impacts, including development in areas near passenger stations, historic districts, or other opportunity zones;

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"(IV) efficiencies from improved connections with other modes; and

"(V) ability to meet existing or anticipated demand;

"(ii) the degree to which the proposed project's business plan considers potential private sector participation in the financing, construction, or operation of the proposed project;

"(iii) the applicant's past performance in developing and delivering similar projects, and previous financial contributions;

"(iv) whether the applicant has, or will have—

"(I) the legal, financial, and technical capacity to carry out the project;

"(II) satisfactory continuing access to the equipment or facilities; and

"(III) the capability and willingness to maintain the equipment or facilities;

"(v) if applicable, the consistency of the project with planning guidance and documents set forth by the Secretary or otherwise required by law;

"(vi) whether the proposed project serves historically unconnected or underconnected communities; and

"(vii) any other relevant factors, as determined by the Secretary; and

"(3) the Secretary shall reserve—

"(A) not less than 45 percent of the amounts appropriated for grants under this section for projects not located along the Northeast Corridor, of which not less than 20 percent shall be for projects that benefit (in whole or in part) a long-distance route; and

"(B) not less than 45 percent of the amounts appropriated for grants under this section for projects listed on the Northeast Corridor project inventory published pursuant to subsection (e)(1).

"(e) LONG-TERM PLANNING.—Not later than 1 year after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, and every 2 years thereafter, the Secretary shall create a predictable project pipeline that will assist Amtrak, States, and the public with long-term capital planning by publishing a Northeast Corridor project inventory that—

"(1) identifies capital projects for Federal investment, project applicants, and proposed Federal funding levels under this section;

"(2) specifies the order in which the Secretary will provide grant funding to projects that have identified sponsors and are located along the Northeast Corridor, including a method and plan for apportioning funds to project sponsors for the 2-year period, which may be altered by the Secretary, as necessary, if recipients are not carrying out projects in accordance with the anticipated schedule;

"(3) takes into consideration the appropriate sequence and phasing of projects described in the Northeast Corridor capital investment plan developed pursuant to section 24904(a);

"(4) is consistent with the most recent Northeast Corridor service development plan update described in section 24904(d);

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"(5) takes into consideration the existing commitments and anticipated Federal, project applicant, sponsor, and other relevant funding levels for the next 5 fiscal years based on information currently available to the Secretary; and

"(6) is developed in consultation with the Northeast Corridor Commission and the owners of Northeast Corridor infrastructure and facilities.";

(5) in subsection (f)(2), by inserting ", except as specified under paragraph (4)" after "80 percent";

(6) in subsection (g)—

(A) in the subsection heading, by inserting "; PHASED FUNDING AGREEMENTS" after "INTENT";

(B) in paragraph (1)—

(i) in the paragraph heading, by striking "IN GENERAL" and inserting "LETTERS OF INTENT"; and

(ii) by striking "shall, to the maximum extent practicable," and inserting "may";

(C) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(D) by inserting after paragraph (1) the following:

"(2) PHASED FUNDING AGREEMENTS.—

"(A) IN GENERAL.—The Secretary may enter into a phased funding agreement with an applicant if—

"(i) the project is highly rated, based on the evaluations and ratings conducted pursuant to this section and the applicable notice of funding opportunity; and

"(ii) the Federal assistance to be provided for the project under this section is more than $80,000,000.

"(B) TERMS.—A phased funding agreement shall—

"(i) establish the terms of participation by the Federal Government in the project;

"(ii) establish the maximum amount of Federal financial assistance for the project;

"(iii) include the period of time for completing the project, even if such period extends beyond the period for which Federal financial assistance is authorized;

"(iv) make timely and efficient management of the project easier in accordance with Federal law; and

"(v) if applicable, specify when the process for complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and related environmental laws will be completed for the project.

"(C) SPECIAL FINANCIAL RULES.—

"(i) IN GENERAL.—A phased funding agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.

"(ii) STATEMENT OF CONTINGENT COMMITMENT.—The agreement shall state that the contingent commitment is not an obligation of the Government.

"(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a phased

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funding agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, to the satisfaction of the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

"(iv) FAILURE TO CARRY OUT PROJECT.—If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Federal grant funds awarded for the project from all Federal funding sources, for all project activities, facilities, and equipment, plus reasonable interest and penalty charges allowable by law or established by the Secretary in the phased funding agreement. For purposes of this clause, a process for complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) that results in the selection of the no build alternative is not within the applicant's control.

"(v) CREDITING OF FUNDS RECEIVED.—Any funds received by the Government under this paragraph, except for interest and penalty charges, shall be credited to the appropriation account from which the funds were originally derived.";

(E) in paragraph (3), as redesignated—

(i) in subparagraph (A), in the matter preceding clause (i), by inserting "a phased funding agreement under paragraph (2) or" after "issuing"; and

(ii) in subparagraph (B)(i), by inserting "the phased funding agreement or" after "a copy of"; and

(F) in paragraph (4), as redesignated—

(i) by striking "An obligation" and inserting the following:

"(B) APPROPRIATIONS REQUIRED.—An obligation"; and

(ii) by inserting before subparagraph (B), as added by clause (i), the following:

"(A) IN GENERAL.—The Secretary may enter into phased funding agreements under this subsection that contain contingent commitments to incur obligations in such amounts as the Secretary determines are appropriate.";

(7) in subsection (i), by striking "section 22905" and inserting "sections 22903 and 22905"; and

(8) by adding at the end the following:

"(j) ANNUAL REPORT ON PHASED FUNDING AGREEMENTS AND LETTERS OF INTENT.—Not later than the first Monday in February of each year, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Appropriations of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Appropriations of the House of Representatives that includes—

"(1) a proposal for the allocation of amounts to be available to finance grants for projects under this section among applicants for such amounts;

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"(2) evaluations and ratings, as applicable, for each project that has received a phased funding agreement or a letter of intent; and

"(3) recommendations for each project that has received a phased funding agreement or a letter of intent for funding based on the evaluations and ratings, as applicable, and on existing commitments and anticipated funding levels for the next 3 fiscal years based on information currently available to the Secretary.

"(k) REGIONAL PLANNING GUIDANCE CORRIDOR PLANNING.—The Secretary may withhold up to 5 percent of the total amount made available for this section to carry out planning and development activities related to section 25101, including—

"(1) providing funding to public entities for the development of service development plans selected under the Corridor Identification and Development Program;

"(2) facilitating and providing guidance for intercity passenger rail systems planning; and

"(3) providing funding for the development and refinement of intercity passenger rail systems planning analytical tools and models.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 249 of title 49, United States Code, is amended by striking the item relating to section 24911 and inserting the following:

"24911. Federal-State partnership for intercity passenger rail.".

SEC. 22308. CORRIDOR IDENTIFICATION AND DEVELOPMENT PROGRAM.

(a) IN GENERAL.—Part C of subtitle V of title 49, United States Code, is amended by adding at the end the following:

"CHAPTER 251—PASSENGER RAIL PLANNING

"Sec.
"25101. Corridor Identification and Development Program.

"§ 25101. Corridor Identification and Development Program

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, the Secretary of Transportation shall establish a program to facilitate the development of intercity passenger rail corridors. The program shall include—

"(1) a process for eligible entities described in subsection (b) to submit proposals for the development of intercity passenger rail corridors;

"(2) a process for the Secretary to review and select proposals in accordance with subsection (c);

"(3) criteria for determining the level of readiness for Federal financial assistance of an intercity passenger rail corridor, which shall include—

"(A) identification of a service operator which may include Amtrak or private rail carriers;

"(B) identification of a service sponsor or sponsors;

"(C) identification capital project sponsors;

"(D) engagement with the host railroads; and

"(E) other criteria as determined appropriate by the Secretary;

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"(4) a process for preparing service development plans in accordance with subsection (d), including the identification of planning funds, such as funds made available under section 24911(k) and interstate rail compact grants established under section 22210;

"(5) the creation of a pipeline of intercity passenger rail corridor projects under subsection (g);

"(6) planning guidance to achieve the purposes of this section, including guidance for intercity passenger rail corridors not selected under this section; and

"(7) such other features as the Secretary considers relevant to the successful development of intercity passenger rail corridors.

"(b) ELIGIBLE ENTITIES.—The Secretary may receive proposals under this section from Amtrak, States, groups of States, entities implementing interstate compacts, regional passenger rail authorities, regional planning organizations, political subdivisions of a State, federally recognized Indian Tribes, and other public entities, as determined by the Secretary.

"(c) CORRIDOR SELECTION.—In selecting intercity passenger rail corridors pursuant to subsection (a), the Secretary shall consider—

"(1) whether the route was identified as part of a regional or interregional intercity passenger rail systems planning study;

"(2) projected ridership, revenues, capital investment, and operating funding requirements;

"(3) anticipated environmental, congestion mitigation, and other public benefits;

"(4) projected trip times and their competitiveness with other transportation modes;

"(5) anticipated positive economic and employment impacts, including development in the areas near passenger stations, historic districts, or other opportunity zones;

"(6) committed or anticipated State, regional transportation authority, or other non-Federal funding for operating and capital costs;

"(7) benefits to rural communities;

"(8) whether the corridor is included in a State's approved State rail plan developed pursuant to chapter 227;

"(9) whether the corridor serves historically unserved or underserved and low-income communities or areas of persistent poverty;

"(10) whether the corridor would benefit or improve connectivity with existing or planned transportation services of other modes;

"(11) whether the corridor connects at least 2 of the 100 most populated metropolitan areas;

"(12) whether the corridor would enhance the regional equity and geographic diversity of intercity passenger rail service;

"(13) whether the corridor is or would be integrated into the national rail passenger transportation system and whether the corridor would create benefits for other passenger rail routes and services; and

"(14) whether a passenger rail operator, including a private rail carrier, has expressed support for the corridor.

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"(d) SERVICE DEVELOPMENT PLANS.—For each corridor proposal selected for development under this section, the Secretary shall partner with the entity that submitted the proposal, relevant States, and Amtrak, as appropriate, to prepare a service development plan (or to update an existing service development plan), which shall include—

"(1) a detailed description of the proposed intercity passenger rail service, including train frequencies, peak and average operating speeds, and trip times;

"(2) a corridor project inventory that—

"(A) identifies the capital projects necessary to achieve the proposed intercity passenger rail service, including—

"(i) the capital projects for which Federal investment will be sought;

"(ii) the likely project applicants; and

"(iii) the proposed Federal funding levels;

"(B) specifies the order in which Federal funding will be sought for the capital projects identified under subparagraph (A), after considering the appropriate sequence and phasing of projects based on the anticipated availability of funds; and

"(C) is developed in consultation with the entities listed in subsection (e);

"(3) a schedule and any associated phasing of projects and related service initiation or changes;

"(4) project sponsors and other entities expected to participate in carrying out the plan;

"(5) a description of how the corridor would comply with Federal rail safety and security laws, orders, and regulations;

"(6) the locations of existing and proposed stations;

"(7) the needs for rolling stock and other equipment;

"(8) a financial plan identifying projected—

"(A) annual revenues;

"(B) annual ridership;

"(C) capital investments before service could be initiated;

"(D) capital investments required to maintain service;

"(E) annual operating and costs; and

"(F) sources of capital investment and operating financial support;

"(9) a description of how the corridor would contribute to the development of a multi-State regional network of intercity passenger rail;

"(10) an intermodal plan describing how the new or improved corridor facilitates travel connections with other passenger transportation services;

"(11) a description of the anticipated environmental benefits of the corridor; and

"(12) a description of the corridor's impacts on highway and aviation congestion, energy consumption, land use, and economic development in the service area.

"(e) CONSULTATION.—In partnering on the preparation of a service development plan under subsection (d), the Secretary shall consult with—

"(1) Amtrak;

"(2) appropriate State and regional transportation authorities and local officials;

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"(3) representatives of employee labor organizations representing railroad and other appropriate employees;

"(4) host railroads for the proposed corridor; and

"(5) other stakeholders, as determined by the Secretary.

"(f) UPDATES.—Every 5 years, after the initial development of the service development plan under subsection (d), if at least 40 percent of the work to implement a service development plan prepared under subsection (d) has not yet been completed, the plan's sponsor, in consultation with the Secretary, shall determine whether such plan should be updated.

"(g) PROJECT PIPELINE.—Not later than 1 year after the establishment of the program under this section, and by February 1st of each year thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Appropriations of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Appropriations of the House of Representatives a project pipeline, in accordance with this section, that—

"(1) identifies intercity passenger rail corridors selected for development under this section;

"(2) identifies capital projects for Federal investment, project applicants, and proposed Federal funding levels, as applicable, consistent with the corridor project inventory;

"(3) specifies the order in which the Secretary would provide Federal financial assistance, subject to the availability of funds, to projects that have identified sponsors, including a method and plan for apportioning funds to project sponsors for a 5-year period, which may be altered by the Secretary, as necessary, if recipients are not carrying out projects on the anticipated schedule;

"(4) takes into consideration the appropriate sequence and phasing of projects described in the corridor project inventory;

"(5) takes into consideration the existing commitments and anticipated Federal, project applicant, sponsor, and other relevant funding levels for the next 5 fiscal years based on information currently available to the Secretary;

"(6) is prioritized based on the level of readiness of the corridor; and

"(7) reflects consultation with Amtrak.

"(h) DEFINITION.—In this section, the term 'intercity passenger rail corridor' means—

"(1) a new intercity passenger rail route of less than 750 miles;

"(2) the enhancement of an existing intercity passenger rail route of less than 750 miles;

"(3) the restoration of service over all or portions of an intercity passenger rail route formerly operated by Amtrak; or

"(4) the increase of service frequency of a long-distance intercity passenger rail route.".

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle V of title 49, United States Code, is amended by inserting after the item relating to chapter 249 the following:

"Chapter 251. Passenger rail planning ..... 25101".

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SEC. 22309. SURFACE TRANSPORTATION BOARD PASSENGER RAIL PROGRAM.

The Surface Transportation Board shall—

(1) establish a passenger rail program with primary responsibility for carrying out the Board's passenger rail responsibilities; and

(2) hire up to 10 additional full-time employees to assist in carrying out the responsibilities referred to in paragraph (1).

Subtitle D—Rail Safety

SEC. 22401. RAILWAY-HIGHWAY CROSSINGS PROGRAM EVALUATION.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary shall evaluate the requirements of the railway-highway crossings program authorized under section 130 of title 23, United States Code, to determine whether—

(1) the requirements of the program provide States sufficient flexibility to adequately address current and emerging highway-rail grade crossing safety issues;

(2) the structure of the program provides sufficient incentives and resources to States and local agencies to make changes at highway-rail grade crossings that are most effective at reducing deaths and injuries;

(3) there are appropriate tools and resources to support States in using data driven programs to determine the most cost-effective use of program funds; and

(4) any statutory changes are recommended to improve the effectiveness of the program.

(b) REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives that summarizes and describes the results of the evaluation conducted pursuant to subsection (a), including any recommended statutory changes.

SEC. 22402. GRADE CROSSING ACCIDENT PREDICTION MODEL.

Not later than 2 years after the date of enactment of this Act, the Administrator of the Federal Railroad Administration shall—

(1) update the grade crossing accident prediction and severity model used by the Federal Railroad Administration to analyze accident risk at highway-rail grade crossings; and

(2) provide training on the use of the updated grade crossing accident prediction and severity model.

SEC. 22403. PERIODIC UPDATES TO HIGHWAY-RAIL CROSSING REPORTS AND PLANS.

(a) HIGHWAY-RAIL GRADE CROSSING SAFETY.—Section 11401 of the Fixing America's Surface Transportation Act (Public Law 114–94; 49 U.S.C. 22907 note) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(b) REPORTS ON HIGHWAY-RAIL GRADE CROSSING SAFETY.—

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(1) IN GENERAL.—Chapter 201 of title 49, United States Code, is amended by inserting after section 20166 the following:

"§ 20167. Reports on highway-rail grade crossing safety

"(a) REPORT.—Not later than 4 years after the date by which States are required to submit State highway-rail grade crossing action plans under section 11401(b) of the Fixing America's Surface Transportation Act (49 U.S.C. 22907 note), the Administrator of the Federal Railroad Administration, in consultation with the Administrator of the Federal Highway Administration, shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that summarizes the State highway-rail grade crossing action plans, including—

"(1) an analysis and evaluation of each State railway-highway crossings program under section 130 of title 23, including—

"(A) compliance with section 11401 of the Fixing America's Surface Transportation Act and section 130(g) of title 23; and

"(B) the specific strategies identified by each State to improve safety at highway-rail grade crossings, including crossings with multiple accidents or incidents;

"(2) the progress of each State in implementing its State highway-rail grade crossings action plan;

"(3) the number of highway-rail grade crossing projects undertaken pursuant to section 130 of title 23, including the distribution of such projects by cost range, road system, nature of treatment, and subsequent accident experience at improved locations;

"(4) which States are not in compliance with their schedule of projects under section 130(d) of title 23; and

"(5) any recommendations for future implementation of the railway-highway crossings program under section 130 of title 23.

"(b) UPDATES.—Not later than 5 years after the submission of the report required under subsection (a), the Administrator of the Federal Railroad Administration, in consultation with the Administrator of the Federal Highway Administration, shall—

"(1) update the report based on the State annual reports submitted pursuant to section 130(g) of title 23 and any other information obtained by or available to the Administrator of the Federal Railroad Administration; and

"(2) submit the updated report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

"(c) DEFINITIONS.—In this section:

"(1) HIGHWAY-RAIL GRADE CROSSING.—The term 'highway-rail grade crossing' means a location within a State, other than a location at which 1 or more railroad tracks cross 1 or more railroad tracks at grade, at which—

"(A) a public highway, road, or street, or a private roadway, including associated sidewalks and pathways, crosses 1 or more railroad tracks, either at grade or grade-separated; or

"(B) a pathway explicitly authorized by a public authority or a railroad carrier that—

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"(i) is dedicated for the use of nonvehicular traffic, including pedestrians, bicyclists, and others;

"(ii) is not associated with a public highway, road, or street, or a private roadway; and

"(iii) crosses 1 or more railroad tracks, either at grade or grade-separated.

"(2) STATE.—The term 'State' means a State of the United States or the District of Columbia.".

(2) CLERICAL AMENDMENT.—The analysis for chapter 201 of title 49, United States Code, is amended by inserting after the item relating to section 20166 the following:

"20167. Reports on highway-rail grade crossing safety.".

(c) ANNUAL REPORT.—Section 130(g) of title 23, United States Code, is amended to read as follows:

"(g) ANNUAL REPORT.—

"(1) IN GENERAL.—Not later than August 31 of each year, each State shall submit a report to the Administrator of the Federal Highway Administration that describes—

"(A) the progress being made to implement the railway-highway crossings program authorized under this section; and

"(B) the effectiveness of the improvements made as a result of such implementation.

"(2) CONTENTS.—Each report submitted pursuant to paragraph (1) shall contain an assessment of—

"(A) the costs of the various treatments employed by the State to implement the railway-highway crossings program; and

"(B) the effectiveness of such treatments, as measured by the accident experience at the locations that received such treatments.

"(3) COORDINATION.—Not later than 30 days after the Federal Highway Administration's acceptance of each report submitted pursuant to paragraph (1), the Administrator of the Federal Highway Administration shall make such report available to the Administrator of the Federal Railroad Administration.".

SEC. 22404. BLOCKED CROSSING PORTAL.

(a) IN GENERAL.—The Administrator of the Federal Railroad Administration shall establish a 3-year blocked crossing portal, which shall include the maintenance of the portal and corresponding database to receive, store, and retrieve information regarding blocked highway-rail grade crossings.

(b) BLOCKED CROSSING PORTAL.—The Administrator of the Federal Railroad Administration shall establish a blocked crossing portal that—

(1) collects information from the public, including first responders, regarding blocked highway-rail grade crossing events;

(2) solicits the apparent cause of the blocked crossing and provides examples of common causes of blocked crossings, such as idling trains or instances when lights or gates are activated when no train is present;

(3) provides each complainant with the contact information for reporting a blocked crossing to the relevant railroad; and

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(4) encourages each complainant to report the blocked crossing to the relevant railroad.

(c) COMPLAINTS.—The blocked crossing portal shall be programmed to receive complaints from the general public about blocked highway-rail grade crossings. Any complaint reported through the portal shall indicate whether the complainant also reported the blocked crossing to the relevant railroad.

(d) INFORMATION RECEIVED.—In reviewing complaints received pursuant to subsection (c), the Federal Railroad Administration shall review, to the extent practicable, the information received from the complainant to account for duplicative or erroneous reporting.

(e) USE OF INFORMATION.—The information received and maintained in the blocked crossing portal database shall be used by the Federal Railroad Administration—

(1) to identify frequent and long-duration blocked highway-rail grade crossings;

(2) as a basis for conducting outreach to communities, emergency responders, and railroads;

(3) to support collaboration in the prevention of incidents at highway-rail grade crossings; and

(4) to assess the impacts of blocked crossings.

(f) SHARING INFORMATION RECEIVED.—

(1) IN GENERAL.—The Administrator of the Federal Railroad Administration shall implement and make publicly available procedures for sharing any nonaggregated information received through the blocked crossing portal with the public.

(2) RULE OF CONSTRUCTION.—Nothing in this section may be construed to authorize the Federal Railroad Administration to make publically available sensitive security information.

(g) ADDITIONAL INFORMATION.—If the information submitted to the blocked crossing portal is insufficient to determine the locations and potential impacts of blocked highway-rail grade crossings, the Federal Railroad Administration may collect, from the general public, State and local law enforcement personnel, and others as appropriate, and on a voluntary basis, such additional information as may be necessary to make such determinations.

(h) LIMITATIONS.—Complaints, data, and other information received through the blocked crossing portal may not be used—

(1) to infer or extrapolate the rate or instances of crossings beyond the data received through the portal; or

(2) for any regulatory or enforcement purposes except those specifically described in this section.

(i) REPORTS.—

(1) ANNUAL PUBLIC REPORT.—The Administrator of the Federal Railroad Administration shall publish an annual report on a public website regarding the blocked crossing program, including the underlying causes of blocked crossings, program challenges, and other findings.

(2) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Administrator of the Federal Railroad Administration shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that describes—

(A) based on the information received through the blocked crossing portal, frequent and long-duration blocked

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highway-rail grade crossings, including the locations, dates, durations, and impacts resulting from such occurrences;

(B) the Federal Railroad Administration's process for verifying the accuracy of the complaints submitted to the blocked crossing portal, including whether the portal continues to be effective in collecting such information and identifying blocked crossings;

(C) the Federal Railroad Administration's use of the data compiled by the blocked crossing portal to assess the underlying cause and overall impacts of blocked crossings;

(D) the engagement of the Federal Railroad Administration with affected parties to identify and facilitate solutions to frequent and long-duration blocked highway-rail grade crossings identified by the blocked crossing portal; and

(E) whether the blocked crossing portal continues to be an effective method to collect blocked crossing information and what changes could improve its effectiveness.

(j) SUNSET.—This section (other than subsection (k)) shall have no force or effect beginning on the date that is 3 years after the date of enactment of this Act.

(k) RULE OF CONSTRUCTION.—Nothing in this section may be construed to invalidate any authority of the Secretary with respect to blocked highway-rail grade crossings. The Secretary may continue to use any such authority after the sunset date set forth in subsection (j).

SEC. 22405. DATA ACCESSIBILITY.

(a) REVIEW.—Not later than 180 days after the date of enactment of this Act, the Chief Information Officer of the Department shall—

(1) conduct a review of the website of the Office of Safety Analysis of the Federal Railroad Administration; and

(2) provide recommendations to the Secretary for improving the public's usability and accessibility of the website referred to in paragraph (1).

(b) UPDATES.—Not later than 1 year after receiving recommendations from the Chief Information Officer pursuant to subsection (a)(2), the Secretary, after considering such recommendations, shall update the website of the Office of Safety Analysis of the Federal Railroad Administration to improve the usability and accessibility of the website.

SEC. 22406. EMERGENCY LIGHTING.

Not later than 1 year after the date of enactment of this Act, the Secretary shall initiate a rulemaking to require that all rail carriers providing intercity passenger rail transportation or commuter rail passenger transportation (as such terms are defined in section 24102 of title 49, United States Code), develop and implement periodic inspection plans to ensure that passenger equipment offered for revenue service complies with the requirements under part 238 of title 49, Code of Federal Regulations, including ensuring that, in the event of a loss of power, there is adequate emergency lighting available to allow passengers, crew members, and first responders—

(1) to see and orient themselves;

(2) to identify obstacles;

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(3) to safely move throughout the rail car; and
(4) to evacuate safely.

SEC. 22407. COMPREHENSIVE RAIL SAFETY REVIEW OF AMTRAK.

(a) COMPREHENSIVE SAFETY ASSESSMENT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall—

(1) conduct a focused review of Amtrak's safety-related processes and procedures, compliance with safety regulations and requirements, and overall safety culture; and

(2) submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that includes the findings and recommendations resulting from such assessment.

(b) PLAN.—

(1) INITIAL PLAN.—Not later than 6 months after the completion of the comprehensive safety assessment under subsection (a)(1), Amtrak shall submit a plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives for addressing the findings and recommendations raised in the comprehensive safety assessment.

(2) ANNUAL UPDATES.—Amtrak shall submit annual updates of its progress toward implementing the plan submitted pursuant to paragraph (1) to the committees listed in such paragraph.

SEC. 22408. COMPLETION OF HOURS OF SERVICE AND FATIGUE STUDIES.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Railroad Administration shall commence the pilot programs required under subparagraphs (A) and (B) of section 21109(e)(1) of title 49, United States Code.

(b) CONSULTATION.—The Federal Railroad Administration shall consult with the class or craft of employees impacted by the pilot projects, including railroad carriers, and representatives of labor organizations representing the impacted employees when designing and conducting the pilot programs referred to in subsection (a).

(c) REPORT.—If the pilot programs required under section 21109(e)(1) of title 49, United States Code, have not commenced on the date that is 1 year and 120 days after the date of enactment of this Act, the Secretary, not later than 30 days after such date, submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that describes—

(1) the status of such pilot programs;

(2) actions that the Federal Railroad Administration has taken to commence the pilot programs, including efforts to recruit participant railroads;

(3) any challenges impacting the commencement of the pilot programs; and

(4) any other details associated with the development of the pilot programs that affect progress toward meeting the mandate under such section 21109(e)(1).

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SEC. 22409. POSITIVE TRAIN CONTROL STUDY.

(a) STUDY.—The Comptroller General of the United States shall conduct a study to determine the annual positive train control system operation and maintenance costs for public commuter railroads.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that summarizes the study conducted pursuant to subsection (a), including the estimated annual positive train control system operation and maintenance costs for public commuter railroads.

SEC. 22410. OPERATING CREW MEMBER TRAINING, QUALIFICATION, AND CERTIFICATION.

(a) AUDITS.—Not later than 60 days after the date of enactment of this Act, the Secretary shall initiate audits of the training, qualification, and certification programs of locomotive engineers and conductors of railroad carriers, subject to the requirements of parts 240 and 242 of title 49, Code of Federal Regulations, which audits shall—

(1) be conducted in accordance with subsection (b);

(2) consider whether such programs are in compliance with such parts 240 and 242;

(3) assess the type and content of training that such programs provide locomotive engineers and conductors, relevant to their respective roles, including training related to installed technology;

(4) determine whether such programs provide locomotive engineers and conductors the knowledge, skill, and ability to safely operate a locomotive or train, consistent with such parts 240 and 242;

(5) determine whether such programs reflect the current operating practices of the railroad carrier;

(6) assess the current practice by which railroads utilize simulator training, or any other technologies used to train and qualify locomotive engineers and conductors by examining how such technologies are used;

(7) consider international experience and practice using similar technology, as appropriate, particularly before qualifying locomotive engineers on new or unfamiliar equipment, new train control, diagnostics, or other on-board technology;

(8) assess the current practice for familiarizing locomotive engineers and conductors with new territory and using recurrency training to expose such personnel to normal and abnormal conditions; and

(9) ensure that locomotive engineers and conductor training programs are considered separately, as appropriate, based on the unique requirements and regulations.

(b) AUDIT SCHEDULING.—The Secretary shall—

(1) schedule the audits required under subsection (a) to ensure that—

(A) each Class I railroad, including the National Railroad Passenger Corporation and other intercity passenger rail providers, is audited not less frequently than once every 5 years; and

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(B) a select number, as determined appropriate by the Secretary, of Class II and Class III railroads, along with other railroads providing passenger rail service that are not included in subparagraph (A), are audited annually; and

(2) conduct the audits described in paragraph (1)(B) in accordance with the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) and appendix C of part 209 of title 49, Code of Federal Regulations.

(c) UPDATES TO QUALIFICATION AND CERTIFICATION PROGRAM.—If the Secretary, while conducting the audits required under this section, identifies a deficiency in a railroad's training, qualification, and certification program for locomotive engineers or conductors, the railroad shall update the program to eliminate such deficiency.

(d) CONSULTATION AND COOPERATION.—

(1) CONSULTATION.—In conducting any audit required under this section, the Secretary shall consult with the railroad and its employees, including any nonprofit employee labor organization representing the engineers or conductors of the railroad.

(2) COOPERATION.—The railroad and its employees, including any nonprofit employee labor organization representing engineers or conductors of the railroad, shall fully cooperate with any such audit, including by—

(A) providing any relevant documents requested; and

(B) making available any employees for interview without undue delay or obstruction.

(3) FAILURE TO COOPERATE.—If the Secretary determines that a railroad or any of its employees, including any nonprofit employee labor organization representing engineers or conductors of the railroad is not fully cooperating with an audit, the Secretary shall electronically notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(e) REVIEW OF REGULATIONS.—The Secretary shall triennially determine whether any update to part 240 or 242 of title 49, Code of Federal Regulations, is necessary to better prepare locomotive engineers and conductors to safely operate trains by evaluating whether such regulations establish appropriate Federal standards requiring railroads—

(1) to provide locomotive engineers or conductors the knowledge and skills to safely operate trains under conditions that reflect industry practices;

(2) to adequately address locomotive engineer or conductor route situational awareness, including ensuring locomotive engineers and conductors to demonstrate knowledge on the physical characteristics of a territory under various conditions and using various resources;

(3) to provide relevant and adequate hands-on training before a locomotive engineer or conductor is certified;

(4) to adequately prepare locomotive engineers or conductors to understand relevant locomotive operating characteristics, to include instructions on functions they are required to operate on any installed technology; and

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(5) to address any other safety issue that the Secretary determines to be appropriate for better preparing locomotive engineers or conductors.

(f) ANNUAL REPORT.—The Secretary shall publish an annual report on the public website of the Federal Railroad Administration that—

(1) summarizes the findings of the prior year's audits;

(2) summarizes any updates made pursuant to subsection (c); and

(3) excludes and confidential business information or sensitive security information.

SEC. 22411. TRANSPARENCY AND SAFETY.

Section 20103(d) of title 49, United States Code, is amended to read as follows:

"(d) NONEMERGENCY WAIVERS.—

"(1) IN GENERAL.—The Secretary of Transportation may waive, or suspend the requirement to comply with, any part of a regulation prescribed or an order issued under this chapter if such waiver or suspension is in the public interest and consistent with railroad safety.

"(2) NOTICE REQUIRED.—The Secretary shall—

"(A) provide timely public notice of any request for a waiver under this subsection or for a suspension under subpart E of part 211 of title 49, Code of Federal Regulations, or successor regulations;

"(B) make available the application for such waiver or suspension and any nonconfidential underlying data to interested parties;

"(C) provide the public with notice and a reasonable opportunity to comment on a proposed waiver or suspension under this subsection before making a final decision; and

"(D) publish on a publicly accessible website the reasons for granting each such waiver or suspension.

"(3) INFORMATION PROTECTION.—Nothing in this subsection may be construed to require the release of information protected by law from public disclosure.

"(4) RULEMAKING.—

"(A) IN GENERAL.—Not later than 1 year after the first day on which a waiver under this subsection or a suspension under subpart E of part 211 of title 49, Code of Federal Regulations, or successor regulations, has been in continuous effect for a 6-year period, the Secretary shall complete a review and analysis of such waiver or suspension to determine whether issuing a rule that is consistent with the waiver is—

"(i) in the public interest; and

"(ii) consistent with railroad safety.

"(B) FACTORS.—In conducting the review and analysis under subparagraph (A), the Secretary shall consider—

"(i) the relevant safety record under the waiver or suspension;

"(ii) the likelihood that other entities would have similar safety outcomes;

"(iii) the materials submitted in the applications, including any comments regarding such materials; and

"(iv) related rulemaking activity.

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"(C) NOTICE AND COMMENT.—

"(i) IN GENERAL.—The Secretary shall publish the review and analysis required under this paragraph in the Federal Register, which shall include a summary of the data collected and all relevant underlying data, if the Secretary decides not to initiate a regulatory update under subparagraph (D).

"(ii) NOTICE OF PROPOSED RULEMAKING.—The review and analysis under this paragraph shall be included as part of the notice of proposed rulemaking if the Secretary initiates a regulatory update under subparagraph (D).

"(D) REGULATORY UPDATE.—The Secretary may initiate a rulemaking to incorporate relevant aspects of a waiver under this subsection or a suspension under subpart E of part 211 of title 49, Code of Federal Regulations, or successor regulations, into the relevant regulation, to the extent the Secretary considers appropriate.

"(5) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to delay any waiver granted pursuant to this subsection that is in the public interest and consistent with railroad safety.".

SEC. 22412. RESEARCH AND DEVELOPMENT.

Section 20108 of title 49, United States Code, is amended by adding at the end the following:

"(d) FACILITIES.—The Secretary may erect, alter, and repair buildings and make other public improvements to carry out necessary railroad research, safety, and training activities at the Transportation Technology Center in Pueblo, Colorado.

"(e) OFFSETTING COLLECTIONS.—The Secretary may collect fees or rents from facility users to offset appropriated amounts for the cost of providing facilities or research, development, testing, training, or other services, including long-term sustainment of the on-site physical plant.

"(f) REVOLVING FUND.—Amounts appropriated to carry out subsection (d) and all fees and rents collected pursuant to subsection (e) shall be credited to a revolving fund and remain available until expended. The Secretary may use such fees and rents for operation, maintenance, repair, or improvement of the Transportation Technology Center.

"(g) LEASES AND CONTRACTS.—Notwithstanding section 1302 of title 40, the Secretary may lease to others or enter into contracts for terms of up to 20 years, for such consideration and subject to such terms and conditions as the Secretary determines to be in the best interests of the Government of the United States, for the operation, maintenance, repair, and improvement of the Transportation Technology Center.

"(h) PROPERTY AND CASUALTY LOSS INSURANCE.—The Secretary may allow its lessees and contractors to purchase property and casualty loss insurance for its assets and activities at the Transportation Technology Center to mitigate the lessee's or contractor's risk associated with operating a facility.

"(i) ENERGY PROJECTS.—Notwithstanding section 1341 of title 31, the Secretary may enter into contracts or agreements, or commit to obligations in connection with third-party contracts or agreements, including contingent liability for the purchase of electric

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power in connection with such contracts or agreements, for terms not to exceed 20 years, to enable the use of the land at the Transportation Technology Center for projects to produce energy from renewable sources.".

SEC. 22413. RAIL RESEARCH AND DEVELOPMENT CENTER OF EXCELLENCE.

Section 20108 of title 49, United States Code, as amended by section 22412, is further amended by adding at the end the following:

"(j) RAIL RESEARCH AND DEVELOPMENT CENTER OF EXCELLENCE.—

"(1) CENTER OF EXCELLENCE.—The Secretary shall award grants to establish and maintain a center of excellence to advance research and development that improves the safety, efficiency, and reliability of passenger and freight rail transportation.

"(2) ELIGIBILITY.—An institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) or a consortium of nonprofit institutions of higher education shall be eligible to receive a grant from the center established pursuant to paragraph (1).

"(3) SELECTION CRITERIA.—In awarding a grant under this subsection, the Secretary shall—

"(A) give preference to applicants with strong past performance related to rail research, education, and workforce development activities;

"(B) consider the extent to which the applicant would involve public and private sector passenger and freight railroad operators; and

"(C) consider the regional and national impacts of the applicant's proposal.

"(4) USE OF FUNDS.—Grant funds awarded pursuant to this subsection shall be used for basic and applied research, evaluation, education, workforce development, and training efforts related to safety, project delivery, efficiency, reliability, resiliency, and sustainability of urban commuter, intercity high-speed, and freight rail transportation, to include advances in rolling stock, advanced positive train control, human factors, rail infrastructure, shared corridors, grade crossing safety, inspection technology, remote sensing, rail systems maintenance, network resiliency, operational reliability, energy efficiency, and other advanced technologies.

"(5) FEDERAL SHARE.—The Federal share of a grant awarded under this subsection shall be 50 percent of the cost of establishing and operating the center of excellence and related research activities carried out by the grant recipient.".

SEC. 22414. QUARTERLY REPORT ON POSITIVE TRAIN CONTROL SYSTEM PERFORMANCE.

Section 20157 of title 49, United States Code, is amended by adding at the end the following:

"(m) REPORTS ON POSITIVE TRAIN CONTROL SYSTEM PERFORMANCE.—

"(1) IN GENERAL.—Each host railroad subject to this section or subpart I of part 236 of title 49, Code of Federal Regulations, shall electronically submit to the Secretary of Transportation a Report of PTC System Performance on Form FRA F 6180.152,

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which shall be submitted on or before the applicable due date set forth in paragraph (3) and contain the information described in paragraph (2), which shall be separated by the host railroad, each applicable tenant railroad, and each positive train control-governed track segment, consistent with the railroad's positive train control Implementation Plan described in subsection (a)(1).

"(2) REQUIRED INFORMATION.—Each report submitted pursuant to paragraph (1) shall include, for the applicable reporting period—

"(A) the number of positive train control system initialization failures, disaggregated by the number of initialization failures for which the source or cause was the onboard subsystem, the wayside subsystem, the communications subsystem, the back office subsystem, or a non-positive train control component;

"(B) the number of positive train control system cut outs, disaggregated by each component listed in subparagraph (A) that was the source or cause of such cut outs;

"(C) the number of positive train control system malfunctions, disaggregated by each component listed in subparagraph (A) that was the source or cause of such malfunctions;

"(D) the number of enforcements by the positive train control system;

"(E) the number of enforcements by the positive train control system in which it is reasonable to assume an accident or incident was prevented;

"(F) the number of scheduled attempts at initialization of the positive train control system;

"(G) the number of train miles governed by the positive train control system; and

"(H) a summary of any actions the host railroad and its tenant railroads are taking to reduce the frequency and rate of initialization failures, cut outs, and malfunctions, such as any actions to correct or eliminate systemic issues and specific problems.

"(3) DUE DATES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), each host railroad shall electronically submit the report required under paragraph (1) not later than—

"(i) April 30, for the period from January 1 through March 31;

"(ii) July 31, for the period from April 1 through June 30;

"(iii) October 31, for the period from July 1 through September 30; and

"(iv) January 31, for the period from October 1 through December 31 of the prior calendar year.

"(B) FREQUENCY REDUCTION.—Beginning on the date that is 3 years after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, the Secretary shall reduce the frequency with which host railroads are required to submit the report described in paragraph (1) to not less frequently than twice per year, unless the Secretary—

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"(i) determines that quarterly reporting is in the public interest; and

"(ii) publishes a justification for such determination in the Federal Register.

"(4) TENANT RAILROADS.—Each tenant railroad that operates on a host railroad's positive train control-governed main line and is not currently subject to an exception under section 236.1006(b) of title 49, Code of Federal Regulations, shall submit the information described in paragraph (2) to each applicable host railroad on a continuous basis.

"(5) ENFORCEMENTS.—Any railroad operating a positive train control system classified under Federal Railroad Administration Type Approval number FRA–TA–2010–001 or FRA–TA–2013–003 shall begin submitting the metric required under paragraph (2)(D) not later than January 31, 2023.".

SEC. 22415. SPEED LIMIT ACTION PLANS.

(a) CODIFICATION OF, AND AMENDMENT TO, SECTION 11406 OF THE FAST ACT.—Subchapter II of chapter 201 of subtitle V of title 49, United States Code, is amended by inserting after section 20168 the following:

"§ 20169. Speed limit action plans

"(a) IN GENERAL.—Not later than March 3, 2016, each railroad carrier providing intercity rail passenger transportation or commuter rail passenger transportation, in consultation with any applicable host railroad carrier, shall survey its entire system and identify each main track location where there is a reduction of more than 20 miles per hour from the approach speed to a curve, bridge, or tunnel and the maximum authorized operating speed for passenger trains at that curve, bridge, or tunnel.

"(b) ACTION PLANS.—Not later than 120 days after the date that the survey under subsection (a) is complete, a railroad carrier described in subsection (a) shall submit to the Secretary of Transportation an action plan that—

"(1) identifies each main track location where there is a reduction of more than 20 miles per hour from the approach speed to a curve, bridge, or tunnel and the maximum authorized operating speed for passenger trains at that curve, bridge, or tunnel;

"(2) describes appropriate actions to enable warning and enforcement of the maximum authorized speed for passenger trains at each location identified under paragraph (1), including—

"(A) modification to automatic train control systems, if applicable, or other signal systems;

"(B) increased crew size;

"(C) installation of signage alerting train crews of the maximum authorized speed for passenger trains in each location identified under paragraph (1);

"(D) installation of alerters;

"(E) increased crew communication; and

"(F) other practices;

"(3) contains milestones and target dates for implementing each appropriate action described under paragraph (2); and

"(4) ensures compliance with the maximum authorized speed at each location identified under paragraph (1).

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"(c) APPROVAL.—Not later than 90 days after the date on which an action plan is submitted under subsection (b) or (d)(2), the Secretary shall approve, approve with conditions, or disapprove the action plan.

"(d) PERIODIC REVIEWS AND UPDATES.—Each railroad carrier that submits an action plan to the Secretary pursuant to subsection (b) shall—

"(1) not later than 1 year after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, and annually thereafter, review such plan to ensure the effectiveness of actions taken to enable warning and enforcement of the maximum authorized speed for passenger trains at each location identified pursuant to subsection (b)(1); and

"(2) not later than 90 days before implementing any significant operational or territorial operating change, including initiating a new service or route, submit to the Secretary a revised action plan, after consultation with any applicable host railroad, that addresses such operational or territorial operating change.

"(e) NEW SERVICE.—If a railroad carrier providing intercity rail passenger transportation or commuter rail passenger transportation did not exist on the date of enactment of the FAST Act (Public Law 114–94; 129 Stat. 1312), such railroad carrier, in consultation with any applicable host railroad carrier, shall—

"(1) survey its routes pursuant to subsection (a) not later than 90 days after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021; and

"(2) develop an action plan pursuant to subsection (b) not later than 120 days after the date on which such survey is complete.

"(f) ALTERNATIVE SAFETY MEASURES.—The Secretary may exempt from the requirements under this section each segment of track for which operations are governed by a positive train control system certified under section 20157, or any other safety technology or practice that would achieve an equivalent or greater level of safety in reducing derailment risk.

"(g) PROHIBITION.—No new intercity or commuter rail passenger service may begin operation unless the railroad carrier providing such service is in compliance with the requirements under this section.

"(h) SAVINGS CLAUSE.—Nothing in this section may be construed to prohibit the Secretary from applying the requirements under this section to other segments of track at high risk of overspeed derailment.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 201 of subtitle V of title 49, United States Code, is amended by adding at the end the following:

"20169. Speed limit action plans.".

SEC. 22416. NEW PASSENGER SERVICE PRE-REVENUE SAFETY VALIDATION PLAN.

(a) IN GENERAL.—Subchapter II of chapter 201 of subtitle V of title 49, United States Code, as amended by section 22415, is further amended by adding at the end the following:

"§ 20170. Pre-revenue service safety validation plan

"(a) PLAN SUBMISSION.—Any railroad providing new, regularly scheduled, intercity or commuter rail passenger transportation, an

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extension of existing service, or a renewal of service that has been discontinued for more than 180 days shall develop and submit for review a comprehensive pre-revenue service safety validation plan to the Secretary of Transportation not later than 60 days before initiating such revenue service. Such plan shall include pertinent safety milestones and a minimum period of simulated revenue service to ensure operational readiness and that all safety sensitive personnel are properly trained and qualified.

"(b) COMPLIANCE.—After submitting a plan pursuant to subsection (a), the railroad shall adopt and comply with such plan and may not amend the plan without first notifying the Secretary of the proposed amendment. Revenue service may not begin until the railroad has completed the requirements of its plan, including the minimum simulated service period required by the plan.

"(c) RULEMAKING.—The Secretary shall promulgate regulations to carry out this section, including—

"(1) requiring that any identified safety deficiencies be addressed and corrected before the initiation of revenue service; and

"(2) establishing appropriate deadlines to enable the Secretary to review and approve the pre-revenue service safety validation plan to ensure that service is not unduly delayed.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 201 of title 49, United States Code, as amended by section 22415(b), is further amended by adding at the end the following:

"20170. Pre-revenue service safety validation plan.".

SEC. 22417. FEDERAL RAILROAD ADMINISTRATION ACCIDENT AND INCIDENT INVESTIGATIONS.

Section 20902 of title 49, United States Code, is amended—

(1) in subsection (b) by striking "subpena" and inserting "subpoena"; and

(2) by adding at the end the following:

"(d) GATHERING INFORMATION AND TECHNICAL EXPERTISE.—

"(1) IN GENERAL.—The Secretary shall create a standard process for investigators to use during accident and incident investigations conducted under this section for determining when it is appropriate and the appropriate method for—

"(A) gathering information about an accident or incident under investigation from railroad carriers, contractors or employees of railroad carriers or representatives of employees of railroad carriers, and others, as determined relevant by the Secretary; and

"(B) consulting with railroad carriers, contractors or employees of railroad carriers or representatives of employees of railroad carriers, and others, as determined relevant by the Secretary, for technical expertise on the facts of the accident or incident under investigation.

"(2) CONFIDENTIALITY.—In developing the process required under paragraph (1), the Secretary shall factor in ways to maintain the confidentiality of any entity identified under paragraph (1) if—

"(A) such entity requests confidentiality;

"(B) such entity was not involved in the accident or incident; and

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"(C) maintaining such entity's confidentiality does not adversely affect an investigation of the Federal Railroad Administration.

"(3) APPLICABILITY.—This subsection shall not apply to any investigation carried out by the National Transportation Safety Board.".

SEC. 22418. CIVIL PENALTY ENFORCEMENT AUTHORITY.

Section 21301(a) of title 49, United States Code, is amended by striking paragraph (3) and inserting the following:

"(3) The Secretary may find that a person has violated this chapter or a regulation prescribed or order, special permit, or approval issued under this chapter only after notice and an opportunity for a hearing. The Secretary shall impose a penalty under this section by giving the person written notice of the amount of the penalty. The Secretary may compromise the amount of a civil penalty by settlement agreement without issuance of an order. In determining the amount of a compromise, the Secretary shall consider—

"(A) the nature, circumstances, extent, and gravity of the violation;

"(B) with respect to the violator, the degree of culpability, any history of violations, the ability to pay, and any effect on the ability to continue to do business; and

"(C) other matters that justice requires.

"(4) The Attorney General may bring a civil action in an appropriate district court of the United States to collect a civil penalty imposed or compromise under this section and any accrued interest on the civil penalty. In the civil action, the amount and appropriateness of the civil penalty shall not be subject to review.".

SEC. 22419. ADVANCING SAFETY AND INNOVATIVE TECHNOLOGY.

(a) IN GENERAL.—Section 26103 of title 49, United States Code, is amended to read as follows:

"§ 26103. Safety regulations and evaluation

"The Secretary—

"(1) shall promulgate such safety regulations as may be necessary for high-speed rail services;

"(2) shall, before promulgating such regulations, consult with developers of new high-speed rail technologies to develop a method for evaluating safety performance; and

"(3) may solicit feedback from relevant safety experts or representatives of rail employees who perform work on similar technology or who may be expected to perform work on new technology, as appropriate.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 261 of title 49, United States Code, is amended by striking the item relating to section 26103 and inserting the following:

"26103. Safety regulations and evaluation.".

SEC. 22420. PASSENGER RAIL VEHICLE OCCUPANT PROTECTION SYSTEMS.

(a) STUDY.—The Administrator of the Federal Railroad Administration shall conduct a study of the potential installation and use in new passenger rail rolling stock of passenger rail vehicle occupant protection systems that could materially improve passenger safety.

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(b) CONSIDERATIONS.—In conducting the study under subsection (a), the Administrator shall consider minimizing the risk of secondary collisions, including estimating the costs and benefits of the new requirements, through the use of—

(1) occupant restraint systems;

(2) air bags;

(3) emergency window retention systems; and

(4) interior designs, including seats, baggage restraints, and table configurations and attachments.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Administrator shall—

(1) submit a report summarizing the findings of the study conducted pursuant to subsection (a) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives; and

(2) publish such report on the website of the Federal Railroad Administration.

(d) RULEMAKING.—Following the completion of the study required under subsection (a), and after considering the costs and benefits of the proposed protection systems, the Administrator may promulgate a rule that establishes standards for the use of occupant protection systems in new passenger rail rolling stock.

SEC. 22421. FEDERAL RAILROAD ADMINISTRATION REPORTING REQUIREMENTS.

(a) ELIMINATION OF DUPLICATIVE OR UNNECESSARY REPORTING OR PAPERWORK REQUIREMENTS IN THE FEDERAL RAILROAD ADMINISTRATION.—

(1) REVIEW.—The Administrator of the Federal Railroad Administration (referred to in this subsection as the "FRA Administrator"), in consultation with the Administrator of the Federal Transit Administration, shall conduct a review of existing reporting and paperwork requirements in the Federal Railroad Administration to determine if any such requirements are duplicative or unnecessary.

(2) ELIMINATION OF CERTAIN REQUIREMENTS.—If the FRA Administrator determines, as a result of the review conducted pursuant to paragraph (1), that any reporting or paperwork requirement that is not statutorily required is duplicative or unnecessary, the FRA Administrator, after consultation with the Administrator of the Federal Transit Administration, shall terminate such requirement.

(3) REPORT.—Not later than 1 year after the date of enactment of this Act, the FRA Administrator shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that—

(A) identifies all of the reporting or paperwork requirements that were terminated pursuant to paragraph (2); and

(B) identifies any statutory reporting or paperwork requirements that are duplicative or unnecessary and should be repealed.

(b) SAFETY REPORTING.—Not later than 1 year after the date of enactment of this Act, and annually thereafter for the following 4 years, the Secretary shall update Special Study Block 49 on

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Form FRA F 6180.54 (Rail Equipment Accident/Incident Report) to collect, with respect to trains involved in accidents required to be reported to the Federal Railroad Administration—

(1) the number of cars and length of the involved trains; and

(2) the number of crew members who were aboard a controlling locomotive involved in an accident at the time of such accident.

SEC. 22422. NATIONAL ACADEMIES STUDY ON TRAINS LONGER THAN 7,500 FEET.

(a) STUDY.—The Secretary shall seek to enter into an agreement with the National Academies to conduct a study on the operation of freight trains that are longer than 7,500 feet.

(b) ELEMENTS.—The study conducted pursuant to subsection (a) shall—

(1) examine any potential impacts to safety from the operation of freight trains that are longer than 7,500 feet and the mitigation of any identified risks, including—

(A) any potential changes in the risk of loss of communications between the end of train device and the locomotive cab, including communications over differing terrains and conditions;

(B) any potential changes in the risk of loss of radio communications between crew members when a crew member alights from the train, including communications over differing terrains and conditions;

(C) any potential changes in the risk of derailments, including any risks associated with in-train compressive forces and slack action or other safety risks in the operations of such trains in differing terrains and conditions;

(D) any potential impacts associated with the deployment of multiple distributed power units in the consists of such trains; and

(E) any potential impacts on braking and locomotive performance and track wear and tear;

(2) evaluate any impacts on scheduling and efficiency of passenger operations and in the shipping of goods by freight as a result of longer trains;

(3) determine whether additional engineer and conductor training is required for safely operating such trains;

(4) assess the potential impact on the amount of time and frequency of occurrence highway-rail grade crossings are occupied; and

(5) identify any potential environmental impacts, including greenhouse gas emissions, that have resulted from the operation of longer trains.

(c) COMPARISON.—When evaluating the potential impacts of the operation of trains longer than 7,500 feet under subsection (b), the impacts of such trains shall be compared to the impacts of trains that are shorter than 7,500 feet, after taking into account train frequency.

(d) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of

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Representatives that contains the results of the study conducted by the National Academies under this section.

(e) FUNDING.—From the amounts appropriated for fiscal year 2021 pursuant to the authorization under section 20117(a) of title 49, United States Code, the Secretary shall expend not less than $1,000,000 and not more than $2,000,000 to carry out the study required under this section.

SEC. 22423. HIGH-SPEED TRAIN NOISE EMISSIONS.

(a) IN GENERAL.—Section 17 of the Noise Control Act of 1972 (42 U.S.C. 4916) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

"(c) HIGH-SPEED TRAIN NOISE EMISSIONS.—

"(1) IN GENERAL.—The Secretary of Transportation, in consultation with the Administrator, may prescribe regulations governing railroad-related noise emission standards for trains operating on the general railroad system of transportation at speeds exceeding 160 miles per hour, including noise related to magnetic levitation systems and other new technologies not traditionally associated with railroads.

"(2) FACTORS IN RULEMAKING.—The regulations prescribed pursuant to paragraph (1) may—

"(A) consider variances in maximum pass-by noise with respect to the speed of the equipment;

"(B) account for current engineering best practices; and

"(C) encourage the use of noise mitigation techniques to the extent reasonable if the benefits exceed the costs.

"(3) CONVENTIONAL-SPEED TRAINS.—Railroad-related noise regulations prescribed under subsection (a) shall continue to govern noise emissions from the operation of trains, including locomotives and rail cars, when operating at speeds not exceeding 160 miles per hour.".

(b) TECHNICAL AMENDMENT.—The second sentence of section 17(b) of the Noise Control Act of 1972 (42 U.S.C. 4916(b)) is amended by striking "the Safety Appliance Acts, the Interstate Commerce Act, and the Department of Transportation Act" and inserting "subtitle V of title 49, United States Code".

SEC. 22424. CRITICAL INCIDENT STRESS PLANS.

The Secretary shall amend part 272 of title 49, Code of Federal Regulations, to the extent necessary to ensure that—

(1) the coverage of a critical incident stress plan under section 272.7 of such part includes employees of commuter railroads and intercity passenger railroads (as such terms are defined in section 272.9 of such part), including employees who directly interact with passengers; and

(2) an assault against an employee requiring medical attention is included in the definition of critical incident under section 272.9 of such part.

SEC. 22425. REQUIREMENTS FOR RAILROAD FREIGHT CARS PLACED INTO SERVICE IN THE UNITED STATES.

(a) IN GENERAL.—Subchapter II of chapter 201 of subtitle V of title 49, United States Code (as amended by section 22416(a)), is amended by adding at the end the following:

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"§ 20171. Requirements for railroad freight cars placed into service in the United States

"(a) DEFINITIONS.—In this section:

"(1) COMPONENT.—The term 'component' means a part or subassembly of a railroad freight car.

"(2) CONTROL.—The term 'control' means the power, whether direct or indirect and whether or not exercised, through the ownership of a majority or a dominant minority of the total outstanding voting interest in an entity, representation on the board of directors of an entity, proxy voting on the board of directors of an entity, a special share in the entity, a contractual arrangement with the entity, a formal or informal arrangement to act in concert with an entity, or any other means, to determine, direct, make decisions, or cause decisions to be made for the entity.

"(3) COST OF SENSITIVE TECHNOLOGY.—The term 'cost of sensitive technology' means the aggregate cost of the sensitive technology located on a railroad freight car.

"(4) COUNTRY OF CONCERN.—The term 'country of concern' means a country that—

"(A) is identified by the Department of Commerce as a nonmarket economy country (as defined in section 771(18) of the Tariff Act of 1930 (19 U.S.C. 1677(18))) as of the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021;

"(B) was identified by the United States Trade Representative in the most recent report required by section 182 of the Trade Act of 1974 (19 U.S.C. 2242) as a foreign country included on the priority watch list (as defined in subsection (g)(3) of such section); and

"(C) is subject to monitoring by the Trade Representative under section 306 of the Trade Act of 1974 (19 U.S.C. 2416).

"(5) NET COST.—The term 'net cost' has the meaning given such term in chapter 4 of the USMCA or any subsequent free trade agreement between the United States, Mexico, and Canada.

"(6) QUALIFIED FACILITY.—The term 'qualified facility' means a facility that is not owned or under the control of a state-owned enterprise.

"(7) QUALIFIED MANUFACTURER.—The term 'qualified manufacturer' means a railroad freight car manufacturer that is not owned or under the control of a state-owned enterprise.

"(8) RAILROAD FREIGHT CAR.—The term 'railroad freight car' means a car designed to carry freight or railroad personnel by rail, including—

"(A) a box car;
"(B) a refrigerator car;
"(C) a ventilator car;
"(D) an intermodal well car;
"(E) a gondola car;
"(F) a hopper car;
"(G) an auto rack car;
"(H) a flat car;
"(I) a special car;
"(J) a caboose car;
"(K) a tank car; and

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"(L) a yard car.

"(9) SENSITIVE TECHNOLOGY.—The term 'sensitive technology' means any device embedded with electronics, software, sensors, or other connectivity, that enables the device to connect to, collect data from, or exchange data with another device, including—

"(A) onboard telematics;

"(B) remote monitoring software;

"(C) firmware;

"(D) analytics;

"(E) global positioning system satellite and cellular location tracking systems;

"(F) event status sensors;

"(G) predictive component condition and performance monitoring sensors; and

"(H) similar sensitive technologies embedded into freight railcar components and sub-assemblies.

"(10) STATE-OWNED ENTERPRISE.—The term 'state-owned enterprise' means—

"(A) an entity that is owned by, or under the control of, a national, provincial, or local government of a country of concern, or an agency of such government; or

"(B) an individual acting under the direction or influence of a government or agency described in subparagraph (A).

"(11) SUBSTANTIALLY TRANSFORMED.—The term 'substantially transformed' means a component of a railroad freight car that undergoes an applicable change in tariff classification as a result of the manufacturing process, as described in chapter 4 and related annexes of the USMCA or any subsequent free trade agreement between the United States, Mexico, and Canada.

"(12) USMCA.—The term 'USMCA' has the meaning given the term in section 3 of the United States-Mexico-Canada Agreement Implementation Act (19 U.S.C. 4502).

"(b) REQUIREMENTS FOR RAILROAD FREIGHT CARS.—

"(1) LIMITATION ON RAILROAD FREIGHT CARS.—A railroad freight car wholly manufactured on or after the date that is 1 year after the date of issuance of the regulations required under subsection (c)(1) may only operate on the United States general railroad system of transportation if—

"(A) the railroad freight car is manufactured, assembled, and substantially transformed, as applicable, by a qualified manufacturer in a qualified facility;

"(B) none of the sensitive technology located on the railroad freight car, including components necessary to the functionality of the sensitive technology, originates from a country of concern or is sourced from a state-owned enterprise; and

"(C) none of the content of the railroad freight car, excluding sensitive technology, originates from a country of concern or is sourced from a state-owned enterprise that has been determined by a recognized court or administrative agency of competent jurisdiction and legal authority to have violated or infringed valid United States intellectual property rights of another including such a finding

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by a Federal district court under title 35 or the U.S. International Trade Commission under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337).

"(2) LIMITATION ON RAILROAD FREIGHT CAR CONTENT.—

"(A) PERCENTAGE LIMITATION.—

"(i) INITIAL LIMITATION.—Not later than 1 year after the date of issuance of the regulations required under subsection (c)(1), a railroad freight car described in paragraph (1) may operate on the United States general railroad system of transportation only if not more than 20 percent of the content of the railroad freight car, calculated by the net cost of all components of the car and excluding the cost of sensitive technology, originates from a country of concern or is sourced from a state-owned enterprise.

"(ii) SUBSEQUENT LIMITATION.—Effective beginning on the date that is 3 years after the date of issuance of the regulations required under subsection (c)(1), a railroad freight car described in paragraph (1) may operate on the United States general railroad system of transportation only if not more than 15 percent of the content of the railroad freight car, calculated by the net cost of all components of the car and excluding the cost of sensitive technology, originates from a country of concern or is sourced from a state-owned enterprise.

"(B) CONFLICT.—The percentages specified in clauses (i) and (ii) of subparagraph (A), as applicable, shall apply notwithstanding any apparent conflict with provisions of chapter 4 of the USMCA.

"(c) REGULATIONS AND PENALTIES.—

"(1) REGULATIONS REQUIRED.—Not later than 2 years after the date of enactment of the Passenger Rail Expansion and Rail Safety Act of 2021, the Secretary of Transportation shall issue such regulations as are necessary to carry out this section, including for the monitoring and sensitive technology requirements of this section.

"(2) CERTIFICATION REQUIRED.—To be eligible to provide a railroad freight car for operation on the United States general railroad system of transportation, the manufacturer of such car shall annually certify to the Secretary of Transportation that any railroad freight cars to be so provided meet the requirements under this section.

"(3) COMPLIANCE.—

"(A) VALID CERTIFICATION REQUIRED.—At the time a railroad freight car begins operation on the United States general railroad system of transportation, the manufacturer of such railroad freight car shall have valid certification described in paragraph (2) for the year in which such car begins operation.

"(B) REGISTRATION OF NONCOMPLIANT CARS PROHIBITED.—A railroad freight car manufacturer may not register, or cause to be registered, a railroad freight car that does not comply with the requirements under this section in the Association of American Railroad's Umler system.

"(4) CIVIL PENALTIES.—

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"(A) IN GENERAL.—Pursuant to section 21301, the Secretary of Transportation may assess a civil penalty of not less than $100,000, but not more than $250,000, for each violation of this section for each railroad freight car.

"(B) PROHIBITION ON OPERATION FOR VIOLATIONS.—The Secretary of Transportation may prohibit a railroad freight car manufacturer with respect to which the Secretary has assessed more than 3 violations under subparagraph (A) from providing additional railroad freight cars for operation on the United States general railroad system of transportation until the Secretary determines—

"(i) such manufacturer is in compliance with this section; and

"(ii) all civil penalties assessed to such manufacturer pursuant to subparagraph (A) have been paid in full.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 201 of subtitle V of title 49, United States Code (as amended by section 22416(b)), is amended by adding at the end the following:

"20171. Requirements for railroad freight cars placed into service in the United States.".

SEC. 22426. RAILROAD POINT OF CONTACT FOR PUBLIC SAFETY ISSUES.

All railroads shall—

(1) provide railroad contact information for public safety issues, including a telephone number, to the relevant Federal, State, and local oversight agencies; and

(2) post the information described in paragraph (1) on a publicly accessible website.

SEC. 22427. CONTROLLED SUBSTANCES TESTING FOR MECHANICAL EMPLOYEES.

Not later than 180 days after the date of enactment of this Act, the Secretary shall amend the regulations under part 219 of title 49, Code of Federal Regulations, to require all mechanical employees of railroads to be subject to all of the breath or body fluid testing set forth in subpart C, D, and E of such part, including random testing, reasonable suspicion testing, reasonable cause testing, pre-employment testing, return-to-duty testing, and follow-up testing.

TITLE III—MOTOR CARRIER SAFETY

SEC. 23001. AUTHORIZATION OF APPROPRIATIONS.

(a) ADMINISTRATIVE EXPENSES.—Section 31110 of title 49, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) ADMINISTRATIVE EXPENSES.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to pay administrative expenses of the Federal Motor Carrier Safety Administration—

"(1) $360,000,000 for fiscal year 2022;
"(2) $367,500,000 for fiscal year 2023;
"(3) $375,000,000 for fiscal year 2024;
"(4) $382,500,000 for fiscal year 2025; and

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"(5) $390,000,000 for fiscal year 2026.".

(b) FINANCIAL ASSISTANCE PROGRAMS.—Section 31104 of title 49, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

"(a) FINANCIAL ASSISTANCE PROGRAMS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account)—

"(1) subject to subsection (c), to carry out the motor carrier safety assistance program under section 31102 (other than the high priority program under subsection (l) of that section)—

"(A) $390,500,000 for fiscal year 2022;
"(B) $398,500,000 for fiscal year 2023;
"(C) $406,500,000 for fiscal year 2024;
"(D) $414,500,000 for fiscal year 2025; and
"(E) $422,500,000 for fiscal year 2026;

"(2) subject to subsection (c), to carry out the high priority program under section 31102(l) (other than the commercial motor vehicle enforcement training and support grant program under paragraph (5) of that section)—

"(A) $57,600,000 for fiscal year 2022;
"(B) $58,800,000 for fiscal year 2023;
"(C) $60,000,000 for fiscal year 2024;
"(D) $61,200,000 for fiscal year 2025; and
"(E) $62,400,000 for fiscal year 2026;

"(3) to carry out the commercial motor vehicle enforcement training and support grant program under section 31102(l)(5), $5,000,000 for each of fiscal years 2022 through 2026;

"(4) to carry out the commercial motor vehicle operators grant program under section 31103—

"(A) $1,100,000 for fiscal year 2022;
"(B) $1,200,000 for fiscal year 2023;
"(C) $1,300,000 for fiscal year 2024;
"(D) $1,400,000 for fiscal year 2025; and
"(E) $1,500,000 for fiscal year 2026; and

"(5) subject to subsection (c), to carry out the financial assistance program for commercial driver's license implementation under section 31313—

"(A) $41,800,000 for fiscal year 2022;
"(B) $42,650,000 for fiscal year 2023;
"(C) $43,500,000 for fiscal year 2024;
"(D) $44,350,000 for fiscal year 2025; and
"(E) $45,200,000 for fiscal year 2026.";

(2) in subsection (b)(2)—

(A) in the third sentence, by striking "The Secretary" and inserting the following:

"(C) IN-KIND CONTRIBUTIONS.—The Secretary";

(B) in the second sentence, by striking "The Secretary" and inserting the following:

"(B) LIMITATION.—The Secretary";

(C) in the first sentence—

(i) by inserting "(except subsection (l)(5) of that section)" after "section 31102"; and

(ii) by striking "The Secretary" and inserting the following:

"(A) REIMBURSEMENT PERCENTAGE.—

"(i) IN GENERAL.—The Secretary"; and

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(D) in subparagraph (A) (as so designated), by adding at the end the following:

"(ii) COMMERCIAL MOTOR VEHICLE ENFORCEMENT TRAINING AND SUPPORT GRANT PROGRAM.—The Secretary shall reimburse a recipient, in accordance with a financial assistance agreement made under section 31102(l)(5), an amount that is equal to 100 percent of the costs incurred by the recipient in a fiscal year in developing and implementing a training program under that section.";

(3) in subsection (c)—

(A) in the subsection heading, by striking "PARTNER TRAINING AND";

(B) in the first sentence—

(i) by striking "(4)" and inserting "(5)"; and

(ii) by striking "partner training and"; and

(C) by striking the second sentence; and

(4) in subsection (f)—

(A) in paragraph (1), by striking "for the next fiscal year" and inserting "for the next 2 fiscal years";

(B) in paragraph (4), by striking "for the next fiscal year" and inserting "for the next 2 fiscal years";

(C) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(D) by inserting after paragraph (3) the following:

"(4) For grants made for carrying out section 31102(l)(5), for the fiscal year in which the Secretary approves the financial assistance agreement and for the next 4 fiscal years."; and

(5) in subsection (i)—

(A) by striking "Amounts not expended" and inserting the following:

"(1) IN GENERAL.—Except as provided in paragraph (2), amounts not expended"; and

(B) by adding at the end the following:

"(2) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—Amounts made available for the motor carrier safety assistance program established under section 31102 (other than amounts made available to carry out section 31102(l)) that are not expended by a recipient during the period of availability shall be released back to the Secretary for reallocation under that program.".

(c) ENFORCEMENT DATA UPDATES.—Section 31102(h)(2)(A) of title 49, United States Code, is amended by striking "2004 and 2005" and inserting "2014 and 2015".

SEC. 23002. MOTOR CARRIER SAFETY ADVISORY COMMITTEE.

Section 4144 of the SAFETEA–LU (49 U.S.C. 31100 note; Public Law 109–59) is amended—

(1) in subsection (b)(1), in the second sentence, by inserting ", including small business motor carriers" after "industry"; and

(2) in subsection (d), by striking "September 30, 2013" and inserting "September 30, 2025".

SEC. 23003. COMBATING HUMAN TRAFFICKING.

Section 31102(l) of title 49, United States Code, is amended—

(1) in paragraph (2)—

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(A) in subparagraph (G)(ii), by striking "and" at the end;

(B) by redesignating subparagraph (H) as subparagraph (J); and

(C) by inserting after subparagraph (G) the following:

"(H) support, through the use of funds otherwise available for such purposes—

"(i) the recognition, prevention, and reporting of human trafficking, including the trafficking of human beings—

"(I) in a commercial motor vehicle; or

"(II) by any occupant, including the operator, of a commercial motor vehicle;

"(ii) the detection of criminal activity or any other violation of law relating to human trafficking; and

"(iii) enforcement of laws relating to human trafficking;

"(I) otherwise support the recognition, prevention, and reporting of human trafficking; and"; and

(2) in paragraph (3)(D)—

(A) in clause (ii), by striking "and" at the end;

(B) in clause (iii), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(iv) for the detection of, and enforcement actions taken as a result of, criminal activity (including the trafficking of human beings)—

"(I) in a commercial motor vehicle; or

"(II) by any occupant, including the operator, of a commercial motor vehicle; and

"(v) in addition to any funds otherwise made available for the recognition, prevention, and reporting of human trafficking, to support the recognition, prevention, and reporting of human trafficking.".

SEC. 23004. IMMOBILIZATION GRANT PROGRAM.

Section 31102(l) of title 49, United States Code, is amended by adding at the end the following:

"(4) IMMOBILIZATION GRANT PROGRAM.—

"(A) DEFINITION OF PASSENGER-CARRYING COMMERCIAL MOTOR VEHICLE.—In this paragraph, the term 'passenger-carrying commercial motor vehicle' has the meaning given the term 'commercial motor vehicle' in section 31301.

"(B) ESTABLISHMENT.—The Secretary shall establish an immobilization grant program under which the Secretary shall provide to States discretionary grants for the immobilization or impoundment of passenger-carrying commercial motor vehicles that—

"(i) are determined to be unsafe; or

"(ii) fail inspection.

"(C) LIST OF CRITERIA FOR IMMOBILIZATION.—The Secretary, in consultation with State commercial motor vehicle entities, shall develop a list of commercial motor vehicle safety violations and defects that the Secretary determines warrant the immediate immobilization of a passenger-carrying commercial motor vehicle.

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"(D) ELIGIBILITY.—A State shall be eligible to receive a grant under this paragraph only if the State has the authority to require the immobilization or impoundment of a passenger-carrying commercial motor vehicle—

"(i) with respect to which a motor vehicle safety violation included in the list developed under subparagraph (C) is determined to exist; or

"(ii) that is determined to have a defect included in that list.

"(E) USE OF FUNDS.—A grant provided under this paragraph may be used for—

"(i) the immobilization or impoundment of passenger-carrying commercial motor vehicles described in subparagraph (D);

"(ii) safety inspections of those passenger-carrying commercial motor vehicles; and

"(iii) any other activity relating to an activity described in clause (i) or (ii), as determined by the Secretary.

"(F) SECRETARY AUTHORIZATION.—The Secretary may provide to a State amounts for the costs associated with carrying out an immobilization program using funds made available under section 31104(a)(2).".

SEC. 23005. COMMERCIAL MOTOR VEHICLE ENFORCEMENT TRAINING AND SUPPORT.

Section 31102(l) of title 49, United States Code (as amended by section 23004), is amended—

(1) in paragraph (1), by striking "(2) and (3)" and inserting "(2) through (5)"; and

(2) by adding at the end the following:

"(5) COMMERCIAL MOTOR VEHICLE ENFORCEMENT TRAINING AND SUPPORT GRANT PROGRAM.—

"(A) IN GENERAL.—The Secretary shall administer a commercial motor vehicle enforcement training and support grant program funded under section 31104(a)(3), under which the Secretary shall make discretionary grants to eligible entities described in subparagraph (C) for the purposes described in subparagraph (B).

"(B) PURPOSES.—The purposes of the grant program under subparagraph (A) are—

"(i) to train non-Federal employees who conduct commercial motor vehicle enforcement activities; and

"(ii) to develop related training materials.

"(C) ELIGIBLE ENTITIES.—An entity eligible for a discretionary grant under the program described in subparagraph (A) is a nonprofit organization that has—

"(i) expertise in conducting a training program for non-Federal employees; and

"(ii) the ability to reach and involve in a training program a target population of commercial motor vehicle safety enforcement employees.".

SEC. 23006. STUDY OF COMMERCIAL MOTOR VEHICLE CRASH CAUSATION.

(a) DEFINITIONS.—In this section:

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(1) COMMERCIAL MOTOR VEHICLE.—The term "commercial motor vehicle" has the meaning given the term in section 31132 of title 49, United States Code.

(2) STUDY.—The term "study" means the study carried out under subsection (b).

(b) STUDY.—The Secretary shall carry out a comprehensive study—

(1) to determine the causes of, and contributing factors to, crashes that involve a commercial motor vehicle; and

(2) to identify data requirements, data collection procedures, reports, and any other measures that can be used to improve the ability of States and the Secretary—

(A) to evaluate future crashes involving commercial motor vehicles;

(B) to monitor crash trends and identify causes and contributing factors; and

(C) to develop effective safety improvement policies and programs.

(c) DESIGN.—The study shall be designed to yield information that can be used to help policy makers, regulators, and law enforcement identify activities and other measures that are likely to lead to reductions in—

(1) the frequency of crashes involving a commercial motor vehicle;

(2) the severity of crashes involving a commercial motor vehicle; and

(3) fatalities and injuries.

(d) CONSULTATION.—In designing and carrying out the study, the Secretary may consult with individuals or entities with expertise on—

(1) crash causation and prevention;

(2) commercial motor vehicles, commercial drivers, and motor carriers, including passenger carriers;

(3) highways and noncommercial motor vehicles and drivers;

(4) Federal and State highway and motor carrier safety programs;

(5) research methods and statistical analysis; and

(6) other relevant topics, as determined by the Secretary.

(e) PUBLIC COMMENT.—The Secretary shall make available for public comment information about the objectives, methodology, implementation, findings, and other aspects of the study.

(f) REPORTS.—As soon as practicable after the date on which the study is completed, the Secretary shall submit to Congress a report describing the results of the study and any legislative recommendations to facilitate reductions in the matters described in paragraphs (1) through (3) of subsection (c).

SEC. 23007. PROMOTING WOMEN IN THE TRUCKING WORKFORCE.

(a) FINDINGS.—Congress finds that—

(1) women make up 47 percent of the workforce of the United States;

(2) women are significantly underrepresented in the trucking industry, holding only 24 percent of all transportation and warehousing jobs and representing only—

(A) 6.6 percent of truck drivers;

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(B) 12.5 percent of all workers in truck transportation; and

(C) 8 percent of freight firm owners;

(3) given the total number of women truck drivers, women are underrepresented in the truck-driving workforce; and

(4) women truck drivers have been shown to be 20 percent less likely than male counterparts to be involved in a crash.

(b) SENSE OF CONGRESS REGARDING WOMEN IN TRUCKING.—It is the sense of Congress that the trucking industry should explore every opportunity to encourage and support the pursuit and retention of careers in trucking by women, including through programs that support recruitment, driver training, and mentorship.

(c) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Motor Carrier Safety Administration.

(2) BOARD.—The term "Board" means the Women of Trucking Advisory Board established under subsection (d)(1).

(3) LARGE TRUCKING COMPANY.—The term "large trucking company" means a motor carrier (as defined in section 13102 of title 49, United States Code) with more than 100 power units.

(4) MID-SIZED TRUCKING COMPANY.—The term "mid-sized trucking company" means a motor carrier (as defined in section 13102 of title 49, United States Code) with not fewer than 11 power units and not more than 100 power units.

(5) POWER UNIT.—The term "power unit" means a self-propelled vehicle under the jurisdiction of the Federal Motor Carrier Safety Administration.

(6) SMALL TRUCKING COMPANY.—The term "small trucking company" means a motor carrier (as defined in section 13102 of title 49, United States Code) with not fewer than 1 power unit and not more than 10 power units.

(d) WOMEN OF TRUCKING ADVISORY BOARD.—

(1) ESTABLISHMENT.—To encourage women to enter the field of trucking, the Administrator shall establish and facilitate an advisory board, to be known as the "Women of Trucking Advisory Board", to review and report on policies that—

(A) provide education, training, mentorship, or outreach to women in the trucking industry; and

(B) recruit, retain, or advance women in the trucking industry.

(2) MEMBERSHIP.—

(A) IN GENERAL.—The Board shall be composed of not fewer than 8 members whose backgrounds, experience, and certifications allow those members to contribute balanced points of view and diverse ideas regarding the matters described in paragraph (3)(B).

(B) APPOINTMENT.—

(i) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Administrator shall appoint the members of the Board, of whom—

(I) not fewer than 1 shall be a representative of large trucking companies;

(II) not fewer than 1 shall be a representative of mid-sized trucking companies;

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(III) not fewer than 1 shall be a representative of small trucking companies;

(IV) not fewer than 1 shall be a representative of nonprofit organizations in the trucking industry;

(V) not fewer than 1 shall be a representative of trucking business associations;

(VI) not fewer than 1 shall be a representative of independent owner-operators;

(VII) not fewer than 1 shall be a woman who is a professional truck driver; and

(VIII) not fewer than 1 shall be a representative of an institution of higher education or trucking trade school.

(ii) DIVERSITY.—A member of the Board appointed under any of subclauses (I) through (VIII) of clause (i) may not be appointed under any other subclause of that clause.

(C) TERMS.—Each member shall be appointed for the life of the Board.

(D) COMPENSATION.—A member of the Board shall serve without compensation.

(3) DUTIES.—

(A) IN GENERAL.—The Board shall identify—

(i) barriers and industry trends that directly or indirectly discourage women from pursuing and retaining careers in trucking, including—

(I) any particular barriers and trends that impact women minority groups;

(II) any particular barriers and trends that impact women who live in rural, suburban, or urban areas; and

(III) any safety risks unique to women in the trucking industry;

(ii) ways in which the functions of trucking companies, nonprofit organizations, training and education providers, and trucking associations may be coordinated to facilitate support for women pursuing careers in trucking;

(iii) opportunities to expand existing opportunities for women in the trucking industry; and

(iv) opportunities to enhance trucking training, mentorship, education, and advancement and outreach programs that would increase the number of women in the trucking industry.

(B) REPORT.—Not later than 2 years after the date of enactment of this Act, the Board shall submit to the Administrator a report containing the findings and recommendations of the Board, including recommendations that companies, associations, institutions, other organizations, or the Administrator may adopt—

(i) to address any industry trends identified under subparagraph (A)(i);

(ii) to coordinate the functions of trucking companies, nonprofit organizations, and trucking associations in a manner that facilitates support for women pursuing careers in trucking;

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(iii)(I) to take advantage of any opportunities identified under subparagraph (A)(iii); and

(II) to create new opportunities to expand existing scholarship opportunities for women in the trucking industry; and

(iv) to enhance trucking training, mentorship, education, and outreach programs that are exclusive to women.

(4) REPORT TO CONGRESS.—

(A) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing—

(i) the findings and recommendations of the Board under paragraph (3)(B); and

(ii) any actions taken by the Administrator to adopt the recommendations of the Board (or an explanation of the reasons for not adopting the recommendations).

(B) PUBLIC AVAILABILITY.—The Administrator shall make the report under subparagraph (A) publicly available—

(i) on the website of the Federal Motor Carrier Safety Administration; and

(ii) in appropriate offices of the Federal Motor Carrier Safety Administration.

(5) TERMINATION.—The Board shall terminate on submission of the report to Congress under paragraph (4).

SEC. 23008. STATE INSPECTION OF PASSENGER-CARRYING COMMERCIAL MOTOR VEHICLES.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall solicit additional comment on the advance notice of proposed rulemaking entitled "State Inspection Programs for Passenger-Carrier Vehicles" (81 Fed. Reg. 24769 (April 27, 2016)).

(b) FINAL RULE.—

(1) IN GENERAL.—After reviewing all comments received in response to the solicitation under subsection (a), if the Secretary determines that data and information exist to support moving forward with a final rulemaking action, the Secretary shall issue a final rule relating to the advance notice of proposed rulemaking described in that subsection.

(2) CONSIDERATIONS.—In determining whether to issue a final rule under paragraph (1), the Secretary shall consider the impact of continuing to allow self-inspection as a means to satisfy periodic inspection requirements on the safety of passenger carrier operations.

SEC. 23009. TRUCK LEASING TASK FORCE.

(a) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Labor, shall establish a task force, to be known as the "Truck Leasing Task Force" (referred to in this section as the "Task Force").

(b) MEMBERSHIP.—

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(1) IN GENERAL.—The Secretary shall select not more than 10 individuals to serve as members of the Task Force, including at least 1 representative from each of the following:

(A) Labor organizations.

(B) Motor carriers that provide lease-purchase agreements to owner-operators.

(C) Consumer protection groups.

(D) Members of the legal profession who specialize in consumer finance issues, including experience with lease-purchase agreements.

(E) Owner-operators in the trucking industry with experience regarding lease-purchase agreements.

(F) Businesses that provide or are subject to lease-purchase agreements in the trucking industry.

(2) COMPENSATION.—A member of the Task Force shall serve without compensation.

(c) DUTIES.—The Task Force shall examine, at a minimum—

(1) common truck leasing arrangements available to commercial motor vehicle drivers, including lease-purchase agreements;

(2) the terms of the leasing agreements described in paragraph (1);

(3)(A) the existence of inequitable leasing agreements and terms in the motor carrier industry;

(B) whether any such inequitable terms and agreements affect the frequency of maintenance performed on vehicles subject to those agreements; and

(C) whether any such inequitable terms and agreements affect whether a vehicle is kept in a general state of good repair;

(4) specific agreements available to drayage drivers at ports relating to the Clean Truck Program or any similar program to decrease emissions from port operations;

(5) the impact of truck leasing agreements on the net compensation of commercial motor vehicle drivers, including port drayage drivers;

(6) whether truck leasing agreements properly incentivize the safe operation of vehicles, including driver compliance with the hours of service regulations and laws governing speed and safety generally;

(7) resources to assist commercial motor vehicle drivers in assessing the financial impacts of leasing agreements; and

(8)(A) the opportunity that equitable leasing agreements provide for drivers to start or expand trucking companies; and

(B) the history of motor carriers starting from single owner-operators.

(d) REPORT.—On completion of the examination under subsection (c), the Task Force shall submit to the Secretary, the Secretary of Labor, and the appropriate committees of Congress a report containing—

(1) the findings of the Task Force with respect to the matters described in subsection (c);

(2) best practices relating to—

(A) assisting a commercial motor vehicle driver in assessing the impacts of leasing agreements prior to entering into such an agreement;

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(B) assisting a commercial motor vehicle driver who has entered into a predatory lease agreement; and

(C) preventing coercion and impacts on safety as described in section 31136 of title 49, United States Code; and

(3) recommendations relating to changes to laws (including regulations), as applicable, at the Federal, State, or local level to promote fair leasing agreements under which a commercial motor vehicle driver, including a short haul driver, who is a party to such an agreement is able to earn a rate commensurate with other commercial motor vehicle drivers performing similar duties.

(e) TERMINATION.—Not later than 30 days after the date on which the report under subsection (d) is submitted, the Task Force shall terminate.

SEC. 23010. AUTOMATIC EMERGENCY BRAKING.

(a) DEFINITIONS.—In this section:

(1) AUTOMATIC EMERGENCY BRAKING SYSTEM.—The term "automatic emergency braking system" means a system on a commercial motor vehicle that, based on a predefined distance and closing rate with respect to an obstacle in the path of the commercial motor vehicle—

(A) alerts the driver of the obstacle; and

(B) if necessary to avoid or mitigate a collision with the obstacle, automatically applies the brakes of the commercial motor vehicle.

(2) COMMERCIAL MOTOR VEHICLE.—The term "commercial motor vehicle" has the meaning given the term in section 31101 of title 49, United States Code.

(b) FEDERAL MOTOR VEHICLE SAFETY STANDARD.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall—

(A) prescribe a motor vehicle safety standard under section 30111 of title 49, United States Code, that requires any commercial motor vehicle subject to section 571.136 of title 49, Code of Federal Regulations (relating to Federal Motor Vehicle Safety Standard Number 136) (or a successor regulation) that is manufactured after the effective date of the standard prescribed under this subparagraph to be equipped with an automatic emergency braking system; and

(B) as part of the standard under subparagraph (A), establish performance requirements for automatic emergency braking systems.

(2) CONSIDERATIONS.—Prior to prescribing the motor vehicle safety standard under paragraph (1)(A), the Secretary shall—

(A) conduct a review of automatic emergency braking systems in use in applicable commercial motor vehicles and address any identified deficiencies with respect to those automatic emergency braking systems in the rulemaking proceeding to prescribe the standard, if practicable; and

(B) consult with representatives of commercial motor vehicle drivers regarding the experiences of drivers with automatic emergency braking systems in use in applicable commercial motor vehicles, including any malfunctions or

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unwarranted activations of those automatic emergency braking systems.

(c) FEDERAL MOTOR CARRIER SAFETY REGULATION.—Not later than 1 year after the date of enactment of this Act, the Secretary shall prescribe a regulation under section 31136 of title 49, United States Code, that requires that an automatic emergency braking system installed in a commercial motor vehicle manufactured after the effective date of the standard prescribed under subsection (b)(1)(A) that is in operation on or after that date and is subject to section 571.136 of title 49, Code of Federal Regulations (relating to Federal Motor Vehicle Safety Standard Number 136) (or a successor regulation) be used at any time during which the commercial motor vehicle is in operation.

(d) REPORT ON AUTOMATIC EMERGENCY BRAKING IN OTHER COMMERCIAL MOTOR VEHICLES.—

(1) STUDY.—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete a study on equipping a variety of commercial motor vehicles not subject to section 571.136 of title 49, Code of Federal Regulations (relating to Federal Motor Vehicle Safety Standard Number 136) (or a successor regulation) as of that date of enactment with automatic emergency braking systems to avoid or mitigate a collision with an obstacle in the path of the commercial motor vehicle, including an assessment of the feasibility, benefits, and costs associated with installing automatic emergency braking systems on a variety of newly manufactured commercial motor vehicles with a gross vehicle weight rating greater than 10,001 pounds.

(2) INDEPENDENT RESEARCH.—If the Secretary enters into a contract with a third party to perform research relating to the study required under paragraph (1), the Secretary shall ensure that the third party does not have any financial or contractual ties to, or relationships with—

(A) a motor carrier that transports passengers or property for compensation;

(B) the motor carrier industry; or

(C) an entity producing or supplying automatic emergency braking systems.

(3) PUBLIC COMMENT.—Not later than 90 days after the date on which the study under paragraph (1) is completed, the Secretary shall—

(A) issue a notice in the Federal Register containing the findings of the study; and

(B) provide an opportunity for public comment.

(4) REPORT TO CONGRESS.—Not later than 90 days after the conclusion of the public comment period under paragraph (3)(B), the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives a report that includes—

(A) the results of the study under paragraph (1);

(B) a summary of any comments received under paragraph (3)(B); and

(C) a determination as to whether the Secretary intends to develop performance requirements for automatic emergency braking systems for applicable commercial

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motor vehicles, including any analysis that led to that determination.

(5) RULEMAKING.—Not later than 2 years after the date on which the study under paragraph (1) is completed, the Secretary shall—

(A) determine whether a motor vehicle safety standard relating to equipping the commercial motor vehicles described in that paragraph with automatic emergency braking systems would meet the requirements and considerations described in subsections (a) and (b) of section 30111 of title 49, United States Code; and

(B) if the Secretary determines that a motor vehicle safety standard described in subparagraph (A) would meet the requirements and considerations described in that subparagraph, initiate a rulemaking to prescribe such a motor vehicle safety standard.

SEC. 23011. UNDERRIDE PROTECTION.

(a) DEFINITIONS.—In this section:

(1) COMMITTEE.—The term "Committee" means the Advisory Committee on Underride Protection established under subsection (d)(1).

(2) MOTOR CARRIER.—The term "motor carrier" has the meaning given the term in section 13102 of title 49, United States Code.

(3) PASSENGER MOTOR VEHICLE.—The term "passenger motor vehicle" has the meaning given the term in section 32101 of title 49, United States Code.

(4) UNDERRIDE CRASH.—The term "underride crash" means a crash in which a trailer or semitrailer intrudes into the passenger compartment of a passenger motor vehicle.

(b) REAR UNDERRIDE GUARDS.—

(1) TRAILERS AND SEMITRAILERS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate such regulations as are necessary to revise sections 571.223 and 571.224 of title 49, Code of Federal Regulations (relating to Federal Motor Vehicle Safety Standard Numbers 223 and 224, respectively), to require trailers and semitrailers manufactured after the date on which those regulations are promulgated to be equipped with rear impact guards that are designed to prevent passenger compartment intrusion from a trailer or semitrailer when a passenger motor vehicle traveling at 35 miles per hour makes—

(i) an impact in which the passenger motor vehicle impacts the center of the rear of the trailer or semitrailer;

(ii) an impact in which 50 percent of the width of the passenger motor vehicle overlaps the rear of the trailer or semitrailer; and

(iii) an impact in which 30 percent of the width of the passenger motor vehicle overlaps the rear of the trailer or semitrailer, if the Secretary determines that a revision of sections 571.223 and 571.224 of title 49, Code of Federal Regulations (relating to Federal Motor Vehicle Safety Standard Numbers 223 and 224,

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respectively) to address such an impact would meet the requirements and considerations described in subsections (a) and (b) of section 30111 of title 49, United States Code.

(B) EFFECTIVE DATE.—The regulations promulgated under subparagraph (A) shall require full compliance with each Federal Motor Vehicle Safety Standard revised pursuant to those regulations not later than 2 years after the date on which those regulations are promulgated.

(2) ADDITIONAL RESEARCH.—The Secretary shall conduct additional research on the design and development of rear impact guards that can—

(A) prevent underride crashes in cases in which the passenger motor vehicle is traveling at speeds of up to 65 miles per hour; and

(B) protect passengers in passenger motor vehicles against severe injury in crashes in which the passenger motor vehicle is traveling at speeds of up to 65 miles per hour.

(3) REVIEW OF STANDARDS.—Not later than 5 years after the date on which the regulations under paragraph (1)(A) are promulgated, the Secretary shall—

(A) review the Federal Motor Vehicle Safety Standards revised pursuant to those regulations and any other requirements of those regulations relating to rear underride guards on trailers or semitrailers to evaluate the need for changes in response to advancements in technology; and

(B) update those Federal Motor Vehicle Safety Standards and those regulations accordingly.

(4) INSPECTIONS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate such regulations as are necessary to revise the regulations relating to minimum periodic inspection standards under appendix G to subchapter B of chapter III of title 49, Code of Federal Regulations, and the regulations relating to driver vehicle inspection reports under section 396.11 of that title to include requirements relating to rear impact guards and rear end protection that are consistent with the requirements described in section 393.86 of that title.

(B) CONSIDERATIONS.—In revising the regulations described in subparagraph (A), the Secretary shall consider it to be a defect or a deficiency if a rear impact guard is missing an, or has a corroded or compromised, element that affects the structural integrity and protective feature of the rear impact guard.

(c) SIDE UNDERRIDE GUARDS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall—

(A) complete additional research on side underride guards to better understand the overall effectiveness of side underride guards;

(B) assess the feasibility, benefits, and costs of, and any impacts on intermodal equipment, freight mobility (including port operations), and freight capacity associated

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with, installing side underride guards on newly manufactured trailers and semitrailers with a gross vehicle weight rating of 10,000 pounds or more;

(C) consider the unique structural and operational aspects of—

(i) intermodal chassis (as defined in section 340.2 of title 46, Code of Federal Regulations; and

(ii) pole trailers (as defined in section 390.5 of title 49, Code of Federal Regulations; and

(D) if warranted, develop performance standards for side underride guards.

(2) INDEPENDENT RESEARCH.—If the Secretary enters into a contract with a third party to perform the research required under paragraph (1)(A), the Secretary shall ensure that the third party does not have any financial or contractual ties to, or relationships with—

(A) a motor carrier that transports passengers or property for compensation;

(B) the motor carrier industry; or

(C) an entity producing or supplying underride guards.

(3) PUBLICATION OF ASSESSMENT.—Not later than 90 days after completion of the assessment required under paragraph (1)(B), the Secretary shall—

(A) issue a notice in the Federal Register containing the findings of the assessment; and

(B) provide an opportunity for public comment.

(4) REPORT TO CONGRESS.—Not later than 90 days after the conclusion of the public comment period under paragraph (3)(B), the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that includes—

(A) the results of the assessment under paragraph (1)(B);

(B) a summary of any comments received by the Secretary under paragraph (3)(B); and

(C) a determination as to whether the Secretary intends to develop performance requirements for side underride guards, including any analysis that led to that determination.

(d) ADVISORY COMMITTEE ON UNDERRIDE PROTECTION.—

(1) ESTABLISHMENT.—The Secretary shall establish an Advisory Committee on Underride Protection to provide advice and recommendations to the Secretary on safety regulations to reduce underride crashes and fatalities relating to underride crashes.

(2) MEMBERSHIP.—

(A) IN GENERAL.—The Committee shall be composed of not more than 20 members, appointed by the Secretary, who—

(i) are not employees of the Department; and

(ii) are qualified to serve on the Committee because of their expertise, training, or experience.

(B) REPRESENTATION.—The Committee shall include 2 representatives of each of the following:

(i) Truck and trailer manufacturers.

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(ii) Motor carriers, including independent owner-operators.
(iii) Law enforcement.
(iv) Motor vehicle engineers.
(v) Motor vehicle crash investigators.
(vi) Truck safety organizations.
(vii) The insurance industry.
(viii) Emergency medical service providers.
(ix) Families of underride crash victims.
(x) Labor organizations.

(3) COMPENSATION.—Members of the Committee shall serve without compensation.

(4) MEETINGS.—The Committee shall meet not less frequently than annually.

(5) SUPPORT.—On request of the Committee, the Secretary shall provide information, administrative services, and supplies necessary for the Committee to carry out the duties of the Committee.

(6) REPORT.—The Committee shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a biennial report that—

(A) describes the advice and recommendations made to the Secretary; and

(B) includes an assessment of progress made by the Secretary in advancing safety regulations relating to underride crashes.

(e) DATA COLLECTION.—Not later than 1 year after the date of enactment of this Act, the Secretary shall implement the recommendations described in the report of the Government Accountability Office entitled "Truck Underride Guards: Improved Data Collection, Inspections, and Research Needed", published on March 14, 2019, and numbered GAO–19–264.

SEC. 23012. PROVIDERS OF RECREATIONAL ACTIVITIES.

Section 13506(b) of title 49, United States Code, is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) transportation by a motor vehicle designed or used to transport not fewer than 9, and not more than 15, passengers (including the driver), whether operated alone or with a trailer attached for the transport of recreational equipment, if—

"(A) the motor vehicle is operated by a person that provides recreational activities;

"(B) the transportation is provided within a 150 air-mile radius of the location at which passengers initially boarded the motor vehicle at the outset of the trip; and

"(C) in the case of a motor vehicle transporting passengers over a route between a place in a State and a place in another State, the person operating the motor vehicle is lawfully providing transportation of passengers over the entire route in accordance with applicable State law.".

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SEC. 23013. AMENDMENTS TO REGULATIONS RELATING TO TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE COMMERCE.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATION.—The term "Administration" means the Federal Motor Carrier Safety Administration.

(2) COVERED CARRIER.—The term "covered carrier" means a motor carrier that is—

(A) engaged in the interstate transportation of household goods; and

(B) subject to the requirements of part 375 of title 49, Code of Federal Regulations (as in effect on the effective date of any amendments made pursuant to the notice of proposed rulemaking issued under subsection (b)).

(b) AMENDMENTS TO REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue a notice of proposed rulemaking to amend, as the Secretary determines to be appropriate, regulations relating to the interstate transportation of household goods.

(c) CONSIDERATIONS.—In issuing the notice of proposed rulemaking under subsection (b), the Secretary shall consider amending the following provisions of title 49, Code of Federal Regulations, in accordance with the following recommendations:

(1) Section 375.207(b) to require each covered carrier to include on the website of the covered carrier a link—

(A) to the publication of the Administration entitled "Ready to Move–Tips for a Successful Interstate Move" and numbered ESA–03–005 on the website of the Administration; or

(B) to a copy of the publication referred to in subparagraph (A) on the website of the covered carrier.

(2) Subsections (a) and (b)(1) of section 375.213 to require each covered carrier to provide to each individual shipper, together with any written estimate provided to the shipper, a copy of the publication described in appendix A of part 375 of that title, entitled "Your Rights and Responsibilities When You Move" and numbered ESA–03–006 (or a successor publication), in the form of a written copy or a hyperlink on the website of the covered carrier to the location on the website of the Administration containing that publication.

(3) Section 375.213 to repeal subsection (e) of that section.

(4) Section 375.401(a) to require each covered carrier—

(A) to conduct a visual survey of the household goods to be transported by the covered carrier—

(i) in person; or

(ii) virtually, using—

(I) a remote camera; or

(II) another appropriate technology;

(B) to offer a visual survey described in subparagraph (A) for all household goods shipments, regardless of the distance between—

(i) the location of the household goods; and

(ii) the location of the agent of the covered carrier preparing the estimate; and

(C) to provide to each shipper a copy of the publication of the Administration entitled "Ready to Move–Tips for a Successful Interstate Move" and numbered ESA–03–005

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on receipt from the shipper of a request to schedule, or a waiver of, a visual survey offered under subparagraph (B).

(5) Sections 375.401(b)(1), 375.403(a)(6)(ii), and 375.405(b)(7)(ii), and subpart D of appendix A of part 375, to require that, in any case in which a shipper tenders any additional item or requests any additional service prior to loading a shipment, the affected covered carrier shall—

(A) prepare a new estimate; and

(B) maintain a record of the date, time, and manner in which the new estimate was accepted by the shipper.

(6) Section 375.501(a), to establish that a covered carrier is not required to provide to a shipper an order for service if the covered carrier elects to provide the information described in paragraphs (1) through (15) of that section in a bill of lading that is presented to the shipper before the covered carrier receives the shipment.

(7) Subpart H of part 375, to replace the replace the terms "freight bill" and "expense bill" with the term "invoice".

SEC. 23014. IMPROVING FEDERAL-STATE MOTOR CARRIER SAFETY ENFORCEMENT COORDINATION.

(a) DEFINITIONS.—In this section:

(1) COVERED STATE.—The term "covered State" means a State that receives Federal funds under the motor carrier safety assistance program established under section 31102 of title 49, United States Code.

(2) IMMINENT HAZARD.—The term "imminent hazard" has the same meaning as in section 521 of title 49, United States Code.

(b) REVIEW AND ENFORCEMENT OF STATE OUT-OF-SERVICE ORDERS.—As soon as practicable after the date of enactment of this Act, the Secretary shall publish in the Federal Register a process under which the Secretary shall review each out-of-service order issued by a covered State in accordance with section 31144(d) of title 49, United States Code, by not later than 30 days after the date on which the out-of-service order is submitted to the Secretary by the covered State.

(c) REVIEW AND ENFORCEMENT OF STATE IMMINENT HAZARD DETERMINATIONS.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall publish in the Federal Register a process under which the Secretary shall review imminent hazard determinations made by covered States.

(2) ENFORCEMENT.—On reviewing an imminent hazard determination under paragraph (1), the Secretary shall pursue enforcement under section 521 of title 49, United States Code, as the Secretary determines to be appropriate.

SEC. 23015. LIMOUSINE RESEARCH.

(a) DEFINITIONS.—In this section:

(1) LIMOUSINE.—The term "limousine" means a motor vehicle—

(A) that has a seating capacity of 9 or more persons (including the driver);

(B) with a gross vehicle weight rating greater than 10,000 pounds but not greater than 26,000 pounds;

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(C) that the Secretary has determined by regulation has physical characteristics resembling—

(i) a passenger car;

(ii) a multipurpose passenger vehicle; or

(iii) a truck with a gross vehicle weight rating of 10,000 pounds or less; and

(D) that is not a taxi, nonemergency medical, or paratransit motor vehicle.

(2) LIMOUSINE OPERATOR.—The term "limousine operator" means a person who owns or leases, and uses, a limousine to transport passengers for compensation.

(3) MOTOR VEHICLE SAFETY STANDARD.—The term "motor vehicle safety standard" has the meaning given the term in section 30102(a) of title 49, United States Code.

(4) STATE.—The term "State" has the meaning given such term in section 30102(a) of title 49, United States Code.

(b) CRASHWORTHINESS.—

(1) RESEARCH.—Not later than 4 years after the date of enactment of this Act, the Secretary shall complete research into the development of motor vehicle safety standards for side impact protection, roof crush resistance, and air bag systems for the protection of occupants in limousines with alternative seating positions, including perimeter seating arrangements.

(2) RULEMAKING OR REPORT.—

(A) CRASHWORTHINESS STANDARDS.—

(i) IN GENERAL.—Subject to clause (ii), not later than 2 years after the date on which the research under paragraph (1) is completed, the Secretary shall prescribe, for the protection of occupants in limousines with alternative seating positions, a final motor vehicle safety standard for each of the following:

(I) Side impact protection.

(II) Roof crush resistance.

(III) Air bag systems.

(ii) REQUIREMENTS AND CONSIDERATIONS.—The Secretary may only prescribe a motor vehicle safety standard described in clause (i) if the Secretary determines that the standard meets the requirements and considerations described in subsections (a) and (b) of section 30111 of title 49, United States Code.

(B) REPORT.—If the Secretary determines that a motor vehicle safety standard described in subparagraph (A)(i) would not meet the requirements and considerations described in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall publish in the Federal Register and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the reasons for not prescribing the standard.

(c) EVACUATION.—

(1) RESEARCH.—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete research into safety features and standards that aid evacuation in the event that an exit in the passenger compartment of a limousine is blocked.

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(2) RULEMAKING OR REPORT.—

(A) LIMOUSINE EVACUATION.—

(i) IN GENERAL.—Subject to clause (ii), not later than 2 years after the date on which the research under paragraph (1) is completed, the Secretary shall prescribe a final motor vehicle safety standard based on the results of that research.

(ii) REQUIREMENTS AND CONSIDERATIONS.—The Secretary may only prescribe a motor vehicle safety standard described in clause (i) if the Secretary determines that the standard meets the requirements and considerations described in subsections (a) and (b) of section 30111 of title 49, United States Code.

(B) REPORT.—If the Secretary determines that a standard described in subparagraph (A)(i) would not meet the requirements and considerations described in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall publish in the Federal Register and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the reasons for not prescribing the standard.

(d) LIMOUSINE INSPECTION DISCLOSURE.—

(1) IN GENERAL.—A limousine operator may not introduce a limousine into interstate commerce unless the limousine operator has prominently disclosed in a clear and conspicuous notice, including on the website of the operator if the operator has a website, the following:

(A) The date of the most recent inspection of the limousine required under State or Federal law, if applicable.

(B) The results of the inspection, if applicable.

(C) Any corrective action taken by the limousine operator to ensure the limousine passed inspection, if applicable.

(2) FEDERAL TRADE COMMISSION ENFORCEMENT.—

(A) IN GENERAL.—The Federal Trade Commission shall enforce this subsection in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this subsection.

(B) TREATMENT.—Any person who violates this subsection shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(3) SAVINGS PROVISION.—Nothing in this subsection limits the authority of the Federal Trade Commission under any other provision of law.

(4) EFFECTIVE DATE.—This subsection shall take effect on the date that is 180 days after the date of enactment of this Act.

SEC. 23016. NATIONAL CONSUMER COMPLAINT DATABASE.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Commerce, Science, and

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Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the National Consumer Complaint Database of the Federal Motor Carrier Safety Administration.

(b) CONTENTS.—The report under subsection (a) shall include—

(1) a review of the process and effectiveness of efforts to review and follow-up on complaints submitted to the National Consumer Complaint Database;

(2) an identification of the top 5 complaint categories;

(3) an identification of—

(A) the process that the Federal Motor Carrier Safety Administration uses to determine which entities to take enforcement actions against; and

(B) the top categories of enforcement actions taken by the Federal Motor Carrier Safety Administration;

(4) a review of the use of the National Consumer Complaint Database website over the 5-year period ending on December 31, 2020, including information obtained by conducting interviews with drivers, customers of movers of household goods, brokers, motor carriers, including small business motor carriers, and other users of the website to determine the usability of the website;

(5) a review of efforts taken by the Federal Motor Carrier Safety Administration to raise awareness of the National Consumer Complaint Database; and

(6) recommendations, as appropriate, including with respect to methods—

(A) for improving the usability of the National Consumer Complaint Database website;

(B) for improving the review of complaints;

(C) for using data collected through the National Consumer Complaint Database to identify bad actors;

(D) to improve confidence and transparency in the complaint process; and

(E) for improving stakeholder awareness of and participation in the National Consumer Complaint Database and the complaint system, including improved communication about the purpose of the National Consumer Complaint Database.

SEC. 23017. ELECTRONIC LOGGING DEVICE OVERSIGHT.

Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a report analyzing the cost and effectiveness of electronic logging devices and detailing the processes—

(1) used by the Federal Motor Carrier Safety Administration—

(A) to review electronic logging device logs; and

(B) to protect proprietary information and personally identifiable information obtained from electronic logging device logs; and

(2) through which an operator may challenge or appeal a violation notice issued by the Federal Motor Carrier Safety Administration relating to an electronic logging device.

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SEC. 23018. TRANSPORTATION OF AGRICULTURAL COMMODITIES AND FARM SUPPLIES.

Section 229(a)(1) of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31136 note; Public Law 106–159) is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(D) drivers transporting livestock (as defined in section 602 of the Emergency Livestock Feed Assistance Act of 1988 (7 U.S.C. 1471) including insects) within a 150 air-mile radius from the final destination of the livestock.".

SEC. 23019. MODIFICATION OF RESTRICTIONS ON CERTAIN COMMERCIAL DRIVER'S LICENSES.

The Administrator of the Federal Motor Carrier Safety Administration shall revise section 383.3(f)(3)(ii) of title 49, Code of Federal Regulations (or a successor regulation), to provide that a restricted commercial driver's license issued to an employee in a farm-related service industry shall 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.

Not later than 3 years after the date of enactment of this Act, and every 3 years thereafter, the Secretary, acting through the Department of Transportation Advisory Committee on Human Trafficking established under section 5(a) of the Combating Human Trafficking in Commercial Vehicles Act (Public Law 115–99; 131 Stat. 2243), shall coordinate with the Attorney General to prepare and submit to Congress a report relating to human trafficking violations involving commercial motor vehicles, which shall 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.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue guidance to clarify the definitions of the terms "broker" and "bona fide agents" in section 371.2 of title 49, Code of Federal Regulations.

(b) CONSIDERATIONS.—In issuing guidance under subsection (a), the Secretary shall take into consideration—

(1) the extent to which technology has changed the nature of freight brokerage;

(2) the role of bona fide agents; and

(3) other aspects of the freight transportation industry.

(c) DISPATCH SERVICES.—In issuing guidance under subsection (a), the Secretary shall, at a minimum—

(1) examine the role of a dispatch service in the transportation industry;

(2) examine the extent to which dispatch services could be considered brokers or bona fide agents; and

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(3) clarify the level of financial penalties for unauthorized brokerage activities under section 14916 of title 49, United States Code, applicable to a dispatch service.

SEC. 23022. APPRENTICESHIP PILOT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) APPRENTICE.—The term "apprentice" means an individual who—

(A) is under the age of 21; and

(B) holds a commercial driver's license.

(2) COMMERCIAL DRIVER'S LICENSE.—The term "commercial driver's license" has the meaning given the term in section 31301 of title 49, United States Code.

(3) COMMERCIAL MOTOR VEHICLE.—The term "commercial motor vehicle" has the meaning given the term in section 390.5 of title 49, Code of Federal Regulations (as in effect on the date of enactment of this Act).

(4) DRIVING TIME.—The term "driving time" has the meaning given the term in section 395.2 of title 49, Code of Federal Regulations (as in effect on the date of enactment of this Act).

(5) EXPERIENCED DRIVER.—The term "experienced driver" means an individual who—

(A) is not younger than 26 years of age;

(B) has held a commercial driver's license for the 2-year period ending on the date on which the individual serves as an experienced driver under subsection (b)(2)(C)(ii);

(C) during the 2-year period ending on the date on which the individual serves as an experienced driver under subsection (b)(2)(C)(ii), has had no—

(i) preventable accidents reportable to the Department; or

(ii) pointed moving violations; and

(D) has a minimum of 5 years of experience driving a commercial motor vehicle in interstate commerce.

(6) ON-DUTY TIME.—The term "on-duty time" has the meaning given the term in section 395.2 of title 49, Code of Federal Regulations (as in effect on the date of enactment of this Act).

(7) POINTED MOVING VIOLATION.—The term "pointed moving violation" means a violation that results in points being added to the license of a driver, or a similar comparable violation, as determined by the Secretary.

(b) PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall establish, in accordance with section 31315(c) of title 49, United States Code, a pilot program allowing employers to establish the apprenticeship programs described in paragraph (2).

(2) DESCRIPTION OF APPRENTICESHIP PROGRAM.—An apprenticeship program referred to in paragraph (1) is a program that consists of the following requirements:

(A) 120-HOUR PROBATIONARY PERIOD.—

(i) IN GENERAL.—The apprentice shall complete 120 hours of on-duty time, of which not less than

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80 hours shall be driving time in a commercial motor vehicle.

(ii) PERFORMANCE BENCHMARKS.—To complete the 120-hour probationary period under clause (i), the employer of an apprentice shall determine that the apprentice is competent in each of the following areas:

(I) Interstate, city traffic, rural 2-lane, and evening driving.

(II) Safety awareness.

(III) Speed and space management.

(IV) Lane control.

(V) Mirror scanning.

(VI) Right and left turns.

(VII) Logging and complying with rules relating to hours of service.

(B) 280-HOUR PROBATIONARY PERIOD.—

(i) IN GENERAL.—After completing the 120-hour probationary period under subparagraph (A), an apprentice shall complete 280 hours of on-duty time, of which not less than 160 hours shall be driving time in a commercial motor vehicle.

(ii) PERFORMANCE BENCHMARKS.—To complete the 280-hour probationary period under clause (i), the employer of an apprentice shall determine that the apprentice is competent in each of the following areas:

(I) Backing and maneuvering in close quarters.

(II) Pretrip inspections.

(III) Fueling procedures.

(IV) Weighing loads, weight distribution, and sliding tandems.

(V) Coupling and uncoupling procedures.

(VI) Trip planning, truck routes, map reading, navigation, and permits.

(C) RESTRICTIONS FOR PROBATIONARY PERIODS.—During the 120-hour probationary period under subparagraph (A) and the 280-hour probationary period under subparagraph (B)—

(i) an apprentice may only drive a commercial motor vehicle that has—

(I) an automatic manual or automatic transmission;

(II) an active braking collision mitigation system;

(III) a forward-facing video event capture system; and

(IV) a governed speed of 65 miles per hour—

(aa) at the pedal; and

(bb) under adaptive cruise control; and

(ii) an apprentice shall be accompanied in the passenger seat of the commercial motor vehicle by an experienced driver.

(D) RECORDS RETENTION.—The employer of an apprentice shall maintain records, in a manner required by the Secretary, relating to the satisfaction of the performance benchmarks described in subparagraphs (A)(ii) and (B)(ii) by the apprentice.

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(E) REPORTABLE INCIDENTS.—If an apprentice is involved in a preventable accident reportable to the Department or a pointed moving violation while driving a commercial motor vehicle as part of an apprenticeship program described in this paragraph, the apprentice shall undergo remediation and additional training until the apprentice can demonstrate, to the satisfaction of the employer, competence in each of the performance benchmarks described in subparagraphs (A)(ii) and (B)(ii).

(F) COMPLETION OF PROGRAM.—An apprentice shall be considered to have completed an apprenticeship program on the date on which the apprentice completes the 280-hour probationary period under subparagraph (B).

(G) MINIMUM REQUIREMENTS.—

(i) IN GENERAL.—Nothing in this section prevents an employer from imposing any additional requirement on an apprentice participating in an apprenticeship program established under this section.

(ii) TECHNOLOGIES.—Nothing in this section prevents an employer from requiring or installing in a commercial motor vehicle any technology in addition to the technologies described in subparagraph (C)(i).

(3) APPRENTICES.—An apprentice may—

(A) drive a commercial motor vehicle in interstate commerce while participating in the 120-hour probationary period under paragraph (2)(A) or the 280-hour probationary period under paragraph (2)(B) pursuant to an apprenticeship program established by an employer in accordance with this section; and

(B) drive a commercial motor vehicle in interstate commerce after the apprentice completes an apprenticeship program described in paragraph (2), unless the Secretary determines there exists a safety concern.

(4) LIMITATION.—The Secretary may not allow more than 3,000 apprentices at any 1 time to participate in the pilot program established under paragraph (1).

(c) TERMINATION.—Effective beginning on the date that is 3 years after the date of establishment of the pilot program under subsection (b)(1)—

(1) the pilot program shall terminate; and

(2) any driver under the age of 21 who has completed an apprenticeship program described in subsection (b)(2) may drive a commercial motor vehicle in interstate commerce, unless the Secretary determines there exists a safety concern.

(d) NO EFFECT ON LICENSE REQUIREMENT.—Nothing in this section exempts an apprentice from any requirement to hold a commercial driver's license in order to operate a commercial motor vehicle.

(e) DATA COLLECTION.—The Secretary shall collect and analyze—

(1) data relating to any incident in which an apprentice participating in the pilot program established under subsection (b)(1) is involved;

(2) data relating to any incident in which a driver under the age of 21 operating a commercial motor vehicle in intrastate commerce is involved; and

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(3) such other data relating to the safety of apprentices aged 18 to 20 years operating in interstate commerce as the Secretary determines to be necessary.

(f) LIMITATION.—A driver under the age of 21 participating in the pilot program under this section may not—

(1) transport—

(A) a passenger; or

(B) hazardous cargo; or

(2) operate a commercial motor vehicle—

(A) in special configuration; or

(B) with a gross vehicle weight rating of more than 80,000 pounds.

(g) REPORT TO CONGRESS.—Not later than 120 days after the date of conclusion of the pilot program under subsection (b), the Secretary shall submit to Congress a report including—

(1) the findings and conclusions resulting from the pilot program, including with respect to technologies or training provided by commercial motor carriers for apprentices as part of the pilot program to successfully improve safety;

(2) an analysis of the safety record of apprentices participating in the pilot program, as compared to other commercial motor vehicle drivers;

(3) the number of drivers that discontinued participation in the apprenticeship program before completion;

(4) a comparison of the safety records of participating drivers before, during, and after the probationary periods under subparagraphs (A) and (B) of subsection (b)(2);

(5) a comparison, for each participating driver, of average on-duty time, driving time, and time spent away from home terminal before, during, and after the probationary periods referred to in paragraph (4); and

(6) a recommendation, based on the data collected, regarding whether the level of safety achieved by the pilot program is equivalent to, or greater than, the level of safety for equivalent commercial motor vehicle drivers aged 21 years or older.

(h) RULE OF CONSTRUCTION.—Nothing in this section affects the authority of the Secretary under section 31315 of title 49, United States Code, with respect to the pilot program established under subsection (b)(1), including the authority to revoke participation in, and terminate, the pilot program under paragraphs (3) and (4) of subsection (c) of that section.

(i) DRIVER COMPENSATION STUDY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, acting through the Administrator of the Federal Motor Carrier Safety Administration, shall offer to enter into a contract with the Transportation Research Board under which the Transportation Research Board shall conduct a study of the impacts of various methods of driver compensation on safety and driver retention, including—

(A) hourly pay;

(B) payment for detention time; and

(C) other payment methods used in the industry as of the date on which the study is conducted.

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(2) CONSULTATION.—In conducting the study under paragraph (1), the Transportation Research Board shall consult with—

(A) labor organizations representing commercial motor vehicle drivers;

(B) representatives of the motor carrier industry, including owner-operators; and

(C) such other stakeholders as the Transportation Research Board determines to be relevant.

SEC. 23023. LIMOUSINE COMPLIANCE WITH FEDERAL SAFETY STANDARDS.

(a) LIMOUSINE STANDARDS.—

(1) SAFETY BELT AND SEATING SYSTEM STANDARDS FOR LIMOUSINES.—Not later than 2 years after the date of enactment of this Act, the Secretary shall prescribe a final rule that—

(A) amends Federal Motor Vehicle Safety Standard Numbers 208, 209, and 210 to require to be installed in limousines on each designated seating position, including on side-facing seats—

(i) an occupant restraint system consisting of integrated lap-shoulder belts; or

(ii) an occupant restraint system consisting of a lap belt, if an occupant restraint system described in clause (i) does not meet the need for motor vehicle safety; and

(B) amends Federal Motor Vehicle Safety Standard Number 207 to require limousines to meet standards for seats (including side-facing seats), seat attachment assemblies, and seat installation to minimize the possibility of failure by forces acting on the seats, attachment assemblies, and installations as a result of motor vehicle impact.

(2) REPORT ON RETROFIT ASSESSMENT FOR LIMOUSINES.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that assesses the feasibility, benefits, and costs with respect to the application of any requirement established under paragraph (1) to a limousine introduced into interstate commerce before the date on which the requirement takes effect.

(b) MODIFICATIONS OF CERTAIN VEHICLES.—The final rule prescribed under subsection (a)(1) and any standards prescribed under subsection (b) or (c) of section 23015 shall apply to a person modifying a passenger motor vehicle (as defined in section 32101 of title 49, United States Code) that has already been purchased by the first purchaser (as defined in section 30102(b) of that title) by increasing the wheelbase of the vehicle to make the vehicle a limousine.

(c) APPLICATION.—The requirements of this section apply notwithstanding section 30112(b)(1) of title 49, United States Code.

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TITLE IV—HIGHWAY AND MOTOR VEHICLE SAFETY

Subtitle A—Highway Traffic Safety

SEC. 24101. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following amounts are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) HIGHWAY SAFETY PROGRAMS.—To carry out section 402 of title 23, United States Code—

(A) $363,400,000 for fiscal year 2022;
(B) $370,900,000 for fiscal year 2023;
(C) $378,400,000 for fiscal year 2024;
(D) $385,900,000 for fiscal year 2025; and
(E) $393,400,000 for fiscal year 2026.

(2) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—To carry out section 403 of title 23, United States Code—

(A) $186,000,000 for fiscal year 2022;
(B) $190,000,000 for fiscal year 2023;
(C) $194,000,000 for fiscal year 2024;
(D) $198,000,000 for fiscal year 2025; and
(E) $202,000,000 for fiscal year 2026.

(3) HIGH-VISIBILITY ENFORCEMENT PROGRAM.—To carry out section 404 of title 23, United States Code—

(A) $36,400,000 for fiscal year 2022;
(B) $38,300,000 for fiscal year 2023;
(C) $40,300,000 for fiscal year 2024;
(D) $42,300,000 for fiscal year 2025; and
(E) $44,300,000 for fiscal year 2026.

(4) NATIONAL PRIORITY SAFETY PROGRAMS.—To carry out section 405 of title 23, United States Code—

(A) $336,500,000 for fiscal year 2022;
(B) $346,500,000 for fiscal year 2023;
(C) $353,500,000 for fiscal year 2024;
(D) $360,500,000 for fiscal year 2025; and
(E) $367,500,000 for fiscal year 2026.

(5) ADMINISTRATIVE EXPENSES.—For administrative and related operating expenses of the National Highway Traffic Safety Administration in carrying out chapter 4 of title 23, United States Code, and this title—

(A) $38,000,000 for fiscal year 2022;
(B) $39,520,000 for fiscal year 2023;
(C) $41,100,800 for fiscal year 2024;
(D) $42,744,832 for fiscal year 2025; and
(E) $44,454,625 for fiscal year 2026.

(6) NATIONAL DRIVER REGISTER.—For the National Highway Traffic Safety Administration to carry out chapter 303 of title 49, United States Code—

(A) $6,800,000 for fiscal year 2022;
(B) $7,000,000 for fiscal year 2023;
(C) $7,200,000 for fiscal year 2024;
(D) $7,400,000 for fiscal year 2025; and
(E) $7,600,000 for fiscal year 2026.

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(b) PROHIBITION ON OTHER USES.—Except as otherwise provided in chapter 4 of title 23, and chapter 303 of title 49, United States Code, the amounts made available under subsection (a) or any other provision of law from the Highway Trust Fund (other than the Mass Transit Account) for a program under those chapters—

(1) shall only be used to carry out that program; and

(2) may not be used by a State or local government for construction purposes.

(c) APPLICABILITY OF TITLE 23.—Except as otherwise provided in chapter 4 of title 23, and chapter 303 of title 49, United States Code, the amounts made available under subsection (a) for fiscal years 2022 through 2026 shall be available for obligation in the same manner as if those funds were apportioned under chapter 1 of title 23, United States Code.

(d) HIGHWAY SAFETY GENERAL REQUIREMENTS.—

(1) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended—

(A) by redesignating sections 409 and 412 and sections 407 and 408, respectively; and

(B) by inserting after section 405 the following:

"§ 406. General requirements for Federal assistance

"(a) DEFINITION OF FUNDED PROJECT.—In this section, the term 'funded project' means a project funded, in whole or in part, by a grant provided under section 402 or 405.

"(b) REGULATORY AUTHORITY.—Each funded project shall be carried out in accordance with applicable regulations promulgated by the Secretary.

"(c) STATE MATCHING REQUIREMENTS.—If a grant provided under this chapter requires any State to share in the cost of a funded project, the aggregate of the expenditures made by the State (including any political subdivision of the State) for highway safety activities during a fiscal year, exclusive of Federal funds, for carrying out the funded project (other than expenditures for planning or administration) shall be credited toward the non-Federal share of the cost of any other funded project (other than planning and administration) during that fiscal year, regardless of whether those expenditures were made in connection with the project.

"(d) GRANT APPLICATION AND DEADLINE.—

"(1) APPLICATIONS.—To be eligible to receive a grant under this chapter, a State shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(2) DEADLINE.—The Secretary shall establish a single deadline for the submission of applications under paragraph (1) to enable the provision of grants under this chapter early in each applicable fiscal year beginning after the date of submission.

"(e) DISTRIBUTION OF FUNDS TO STATES.—Not later than 60 days after the later of the start of a fiscal year or the date of enactment of any appropriations Act making funds available to carry out this chapter for that fiscal year, the Secretary shall distribute to each State the portion of those funds to which the State is entitled for the applicable fiscal year.".

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(2) CLERICAL AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by striking the items relating to sections 406 through 412 and inserting the following:

"406. General requirements for Federal assistance.
"407. Discovery and admission as evidence of certain reports and surveys.
"408. Agency accountability.".

SEC. 24102. HIGHWAY SAFETY PROGRAMS.

(a) IN GENERAL.—Section 402 of title 23, United States Code, is amended—

(1) by striking "accidents" each place it appears and inserting "crashes";

(2) by striking "accident" each place it appears and inserting "crash";

(3) in subsection (a)—

(A) in paragraph (1), by striking "shall have" and all that follows through the period at the end and inserting the following: "shall have in effect a highway safety program that—

"(i) is designed to reduce—

"(I) traffic crashes; and

"(II) deaths, injuries, and property damage resulting from those crashes;

"(ii) includes—

"(I) an approved, current, triennial highway safety plan in accordance with subsection (k); and

"(II) an approved grant application under subsection (l) for the fiscal year;

"(iii) demonstrates compliance with the applicable administrative requirements of subsection (b)(1); and

"(iv) is approved by the Secretary.";

(B) in paragraph (2)(A)—

(i) in clause (ii), by striking "occupant protection devices (including the use of safety belts and child restraint systems)" and inserting "safety belts";

(ii) in clause (vii), by striking "and" at the end;

(iii) by redesignating clauses (iii) through (viii) as clauses (iv) through (ix), respectively;

(iv) by inserting after clause (ii) the following:

"(iii) to encourage more widespread and proper use of child restraints, with an emphasis on underserved populations;"; and

(v) by adding at the end the following:

"(x) to reduce crashes caused by driver misuse or misunderstanding of new vehicle technology;

"(xi) to increase vehicle recall awareness;

"(xii) to provide to the public information relating to the risks of child heatstroke death when left unattended in a motor vehicle after the motor is deactivated by the operator;

"(xiii) to reduce injuries and deaths resulting from the failure by drivers of motor vehicles to move to another traffic lane or reduce the speed of the vehicle when law enforcement, fire service, emergency medical services, or other emergency or first responder vehicles are stopped or parked on or next to a roadway with emergency lights activated; and

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"(xiv) to prevent crashes, injuries, and deaths caused by unsecured vehicle loads;"; and

(C) by adding at the end the following:

"(3) ADDITIONAL CONSIDERATIONS.—A State that has legalized medicinal or recreational marijuana shall take into consideration implementing programs in addition to the programs described in paragraph (2)(A)—

"(A) to educate drivers regarding the risks associated with marijuana-impaired driving; and

"(B) to reduce injuries and deaths resulting from individuals driving motor vehicles while impaired by marijuana.";

(4) in subsection (b)(1)—

(A) in the matter preceding subparagraph (A), by striking "may" and inserting "shall";

(B) by striking subparagraph (B) and inserting the following:

"(B) provide for a comprehensive, data-driven traffic safety program that results from meaningful public participation and engagement from affected communities, particularly those most significantly impacted by traffic crashes resulting in injuries and fatalities;";

(C) in subparagraph (C), by striking "authorized in accordance with subparagraph (B)";

(D) in subparagraph (D), by striking "with disabilities, including those in wheelchairs" and inserting ", including those with disabilities and those in wheelchairs";

(E) by striking subparagraph (E) and inserting the following:

"(E) as part of a comprehensive program, support—

"(i) data-driven traffic safety enforcement programs that foster effective community collaboration to increase public safety; and

"(ii) data collection and analysis to ensure transparency, identify disparities in traffic enforcement, and inform traffic enforcement policies, procedures, and activities; and"; and

(F) in subparagraph (F)—

(i) in clause (i), by striking "national law enforcement mobilizations and high-visibility" and inserting "national, high-visibility";

(ii) in clause (iv), by striking "and" after the semicolon at the end;

(iii) in clause (v), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following:

"(vi) unless the State highway safety program is developed by American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the United States Virgin Islands, participation in the Fatality Analysis Reporting System.";

(5) in subsection (c)—

(A) in paragraph (1)—

(i) by striking the paragraph designation and heading and all that follows through "Funds authorized" and inserting the following:

"(1) USE FOR STATE ACTIVITIES.—

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"(A) IN GENERAL.—The funds authorized"; and

(ii) by adding at the end the following:

"(B) NEIGHBORING STATES.—A State, acting in cooperation with any neighboring State, may use funds provided under this section for a highway safety program that may confer a benefit on the neighboring State.";

(B) by striking paragraphs (2) and (3) and inserting the following:

"(2) APPORTIONMENT TO STATES.—

"(A) DEFINITION OF PUBLIC ROAD.—In this paragraph, the term 'public road' means any road that is—

"(i) subject to the jurisdiction of, and maintained by, a public authority; and

"(ii) held open to public travel.

"(B) APPORTIONMENT.—

"(i) IN GENERAL.—Except for the amounts identified in section 403(f) and the amounts subject to subparagraph (C), of the funds made available under this section—

"(I) 75 percent shall be apportioned to each State based on the ratio that, as determined by the most recent decennial census—

"(aa) the population of the State; bears to

"(bb) the total population of all States; and

"(II) 25 percent shall be apportioned to each State based on the ratio that, subject to clause (ii)—

"(aa) the public road mileage in each State; bears to

"(bb) the total public road mileage in all States.

"(ii) CALCULATION.—For purposes of clause (i)(II), public road mileage shall be—

"(I) determined as of the end of the calendar year preceding the year during which the funds are apportioned;

"(II) certified by the Governor of the State; and

"(III) subject to approval by the Secretary.

"(C) MINIMUM APPORTIONMENTS.—The annual apportionment under this section to—

"(i) each State shall be not less than ¾ of 1 percent of the total apportionment;

"(ii) the Secretary of the Interior shall be not less than 2 percent of the total apportionment; and

"(iii) the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be not less than ¼ of 1 percent of the total apportionment.

"(D) PENALTY.—

"(i) IN GENERAL.—The funds apportioned under this section to a State that does not have approved or in effect a highway safety program described in subsection (a)(1) shall be reduced by an amount equal to not less than 20 percent of the amount that would

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otherwise be apportioned to the State under this section, until the date on which the Secretary, as applicable—

"(I) approves such a highway safety program; or

"(II) determines that the State is implementing such a program.

"(ii) FACTOR FOR CONSIDERATION.—In determining the amount of the reduction in funds apportioned to a State under this subparagraph, the Secretary shall take into consideration the gravity of the failure by the State to secure approval, or to implement, a highway safety program described in subsection (a)(1).

"(E) LIMITATIONS.—

"(i) IN GENERAL.—A highway safety program approved by the Secretary shall not include any requirement that a State shall implement such a program by adopting or enforcing any law, rule, or regulation based on a guideline promulgated by the Secretary under this section requiring any motorcycle operator aged 18 years or older, or a motorcycle passenger aged 18 years or older, to wear a safety helmet when operating or riding a motorcycle on the streets and highways of that State.

"(ii) EFFECT OF GUIDELINES.—Nothing in this section requires a State highway safety program to require compliance with every uniform guideline, or with every element of every uniform guideline, in every State.

"(3) REAPPORTIONMENT.—

"(A) IN GENERAL.—The Secretary shall promptly apportion to a State any funds withheld from the State under paragraph (2)(D) if the Secretary makes an approval or determination, as applicable, described in that paragraph by not later than July 31 of the fiscal year for which the funds were withheld.

"(B) CONTINUING STATE FAILURE.—If the Secretary determines that a State fails to correct a failure to have approved or in effect a highway safety program described in subsection (a)(1) by the date described in subparagraph (A), the Secretary shall reapportion the funds withheld from that State under paragraph (2)(D) for the fiscal year to the other States in accordance with the formula described in paragraph (2)(B) by not later than the last day of the fiscal year."; and

(C) in paragraph (4)—

(i) by striking subparagraph (C);

(ii) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (A), respectively, and moving the subparagraphs so as to appear in alphabetical order; and

(iii) by adding at the end the following:

"(C) SPECIAL RULE FOR SCHOOL AND WORK ZONES.—Notwithstanding subparagraph (B), a State may expend funds apportioned to the State under this section to carry out a program to purchase, operate, or maintain an automated traffic enforcement system in a work zone or school zone.

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"(D) AUTOMATED TRAFFIC ENFORCEMENT SYSTEM GUIDELINES.—An automated traffic enforcement system installed pursuant to subparagraph (C) shall comply with such guidelines applicable to speed enforcement camera systems and red light camera systems as are established by the Secretary.";

(6) in subsection (k)—

(A) by striking the subsection designation and heading and all that follows through "thereafter" in paragraph (1) and inserting the following:

"(k) TRIENNIAL HIGHWAY SAFETY PLAN.—

"(1) IN GENERAL.—For fiscal year 2024, and not less frequently than once every 3 fiscal years thereafter";

(B) in paragraph (1), by striking "for that fiscal year, to develop and submit to the Secretary for approval a highway safety plan" and inserting "for the 3 fiscal years covered by the plan, to develop and submit to the Secretary for approval a triennial highway safety plan";

(C) by striking paragraph (2) and inserting the following:

"(2) TIMING.—Each State shall submit to the Secretary a triennial highway safety plan by not later than July 1 of the fiscal year preceding the first fiscal year covered by the plan.";

(D) in paragraph (3), by inserting "triennial" before "highway";

(E) in paragraph (4)—

(i) in the matter preceding subparagraph (A)—

(I) by striking "State highway safety plans" and inserting "Each State triennial highway safety plan"; and

(II) by inserting ", with respect to the 3 fiscal years covered by the plan, based on the information available on the date of submission under paragraph (2)" after "include";

(ii) in subparagraph (A)(ii), by striking "annual performance targets" and inserting "performance targets that demonstrate constant or improved performance";

(iii) by striking subparagraph (B) and inserting the following:

"(B) a countermeasure strategy for programming funds under this section for projects that will allow the State to meet the performance targets described in subparagraph (A), including a description—

"(i) that demonstrates the link between the effectiveness of each proposed countermeasure strategy and those performance targets; and

"(ii) of the manner in which each countermeasure strategy is informed by uniform guidelines issued by the Secretary;";

(iv) in subparagraph (D)—

(I) by striking ", State, local, or private"; and

(II) by inserting "and" after the semicolon at the end;

(v) in subparagraph (E)—

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(I) by striking "for the fiscal year preceding the fiscal year to which the plan applies,"; and

(II) by striking "performance targets set forth in the previous year's highway safety plan; and" and inserting "performance targets set forth in the most recently submitted highway safety plan."; and

(vi) by striking subparagraph (F);

(F) by striking paragraph (5) and inserting the following:

"(5) PERFORMANCE MEASURES.—The Secretary shall develop minimum performance measures under paragraph (4)(A) in consultation with the Governors Highway Safety Association."; and

(G) in paragraph (6)—

(i) in the paragraph heading, by inserting "TRIENNIAL" before "HIGHWAY";

(ii) by redesignating subparagraphs (B) through (E) as subparagraphs (C) through (F), respectively;

(iii) in each of subparagraphs (C) through (F) (as so redesignated), by inserting "triennial" before "highway" each place it appears; and

(iv) by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall review and approve or disapprove a triennial highway safety plan of a State by not later than 60 days after the date on which the plan is received by the Secretary.

"(B) ADDITIONAL INFORMATION.—

"(i) IN GENERAL.—The Secretary may request a State to submit to the Secretary such additional information as the Secretary determines to be necessary for review of the triennial highway safety plan of the State.

"(ii) EXTENSION OF DEADLINE.—On providing to a State a request for additional information under clause (i), the Secretary may extend the deadline to approve or disapprove the triennial highway safety plan of the State under subparagraph (A) for not more than an additional 90 days, as the Secretary determines to be necessary to accommodate that request, subject to clause (iii).

"(iii) TIMING.—Any additional information requested under clause (i) shall be submitted to the Secretary by not later than 7 business days after the date of receipt by the State of the request.";

(7) by inserting after subsection (k) the following:

"(l) ANNUAL GRANT APPLICATION AND REPORTING REQUIREMENTS.—

"(1) ANNUAL GRANT APPLICATION.—

"(A) IN GENERAL.—To be eligible to receive grant funds under this chapter for a fiscal year, each State shall submit to the Secretary an annual grant application that, as determined by the Secretary—

"(i) demonstrates alignment with the approved triennial highway safety plan of the State; and

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"(ii) complies with the requirements under this subsection.

"(B) TIMING.—The deadline for submission of annual grant applications under this paragraph shall be determined by the Secretary in accordance with section 406(d)(2).

"(C) CONTENTS.—An annual grant application under this paragraph shall include, at a minimum—

"(i) such updates, as necessary, to any analysis included in the triennial highway safety plan of the State;

"(ii) an identification of each project and subrecipient to be funded by the State using the grants during the upcoming grant year, subject to the condition that the State shall separately submit, on a date other than the date of submission of the annual grant application, a description of any projects or subrecipients to be funded, as that information becomes available;

"(iii) a description of the means by which the strategy of the State to use grant funds was adjusted and informed by the previous report of the State under paragraph (2); and

"(iv) an application for any additional grants available to the State under this chapter.

"(D) REVIEW.—The Secretary shall review and approve or disapprove an annual grant application under this paragraph by not later than 60 days after the date of submission of the application.

"(2) REPORTING REQUIREMENTS.—Not later than 120 days after the end of each fiscal year for which a grant is provided to a State under this chapter, the State shall submit to the Secretary an annual report that includes—

"(A) an assessment of the progress made by the State in achieving the performance targets identified in the triennial highway safety plan of the State, based on the most currently available Fatality Analysis Reporting System data; and

"(B)(i) a description of the extent to which progress made in achieving those performance targets is aligned with the triennial highway safety plan of the State; and

"(ii) if applicable, any plans of the State to adjust a strategy for programming funds to achieve the performance targets.";

(8) in subsection (m)(1), by striking "a State's highway safety plan" and inserting "the applicable triennial highway safety plan of the State"; and

(9) by striking subsection (n) and inserting the following:

"(n) PUBLIC TRANSPARENCY.—

"(1) IN GENERAL.—The Secretary shall publicly release on a Department of Transportation website, by not later than 45 calendar days after the applicable date of availability—

"(A) each triennial highway safety plan approved by the Secretary under subsection (k);

"(B) each State performance target under subsection (k); and

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"(C) an evaluation of State achievement of applicable performance targets under subsection (k).

"(2) STATE HIGHWAY SAFETY PLAN WEBSITE.—

"(A) IN GENERAL.—In carrying out paragraph (1), the Secretary shall establish a public website that is easily accessible, navigable, and searchable for the information required under that paragraph, in order to foster greater transparency in approved State highway safety programs.

"(B) CONTENTS.—The website established under subparagraph (A) shall—

"(i) include the applicable triennial highway safety plan, and the annual report, of each State submitted to, and approved by, the Secretary under subsection (k); and

"(ii) provide a means for the public to search the website for State highway safety program content required under subsection (k), including—

"(I) performance measures required by the Secretary;

"(II) progress made toward meeting the applicable performance targets during the preceding program year;

"(III) program areas and expenditures; and

"(IV) a description of any sources of funds, other than funds provided under this section, that the State proposes to use to carry out the triennial highway safety plan of the State.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to any grant application or State highway safety plan submitted under chapter 4 of title 23, United States Code, for fiscal year 2024 or thereafter.

SEC. 24103. HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.

Section 403 of title 23, United States Code, is amended—

(1) by striking "accident" each place it appears and inserting "crash";

(2) in subsection (b)(1), in the matter preceding subparagraph (A), by inserting ", training, education," after "demonstration projects";

(3) in subsection (f)(1)—

(A) by striking "$2,500,000" and inserting "$3,500,000"; and

(B) by striking "subsection 402(c) in each fiscal year ending before October 1, 2015, and $443,989 of the total amount available for apportionment to the States for highway safety programs under section 402(c) in the period beginning on October 1, 2015, and ending on December 4, 2015," and inserting "section 402(c) in each fiscal year";

(4) in subsection (h)—

(A) in paragraph (2), by striking "2017 through 2021 not more than $26,560,000' to conduct the research described in paragraph (1)" and inserting "2022 through 2025, not more than $45,000,000 to conduct the research described in paragraph (2)";

(B) in paragraph (5)(A), by striking "section 30102(a)(6)" and inserting "section 30102(a)"; and

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(C) by redesignating paragraphs (1), (2), (3), (4), and (5) as paragraphs (2), (3), (4), (5), and (1), respectively, and moving the paragraphs so as to appear in numerical order; and

(5) by adding at the end the following:

"(k) CHILD SAFETY CAMPAIGN.—

"(1) IN GENERAL.—The Secretary shall carry out an education campaign to reduce the incidence of vehicular heatstroke of children left in passenger motor vehicles (as defined in section 30102(a) of title 49).

"(2) ADVERTISING.—The Secretary may use, or authorize the use of, funds made available to carry out this section to pay for the development, production, and use of broadcast and print media advertising and Internet-based outreach for the education campaign under paragraph (1).

"(3) COORDINATION.—In carrying out the education campaign under paragraph (1), the Secretary shall coordinate with—

"(A) interested State and local governments;

"(B) private industry; and

"(C) other parties, as determined by the Secretary.

"(l) DEVELOPMENT OF STATE PROCESSES FOR INFORMING CONSUMERS OF RECALLS.—

"(1) DEFINITIONS.—In this subsection:

"(A) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given the term in section 30102(a) of title 49.

"(B) OPEN RECALL.—The term 'open recall' means a motor vehicle recall—

"(i) for which a notification by a manufacturer has been provided under section 30119 of title 49; and

"(ii) that has not been remedied under section 30120 of that title.

"(C) PROGRAM.—The term 'program' means the program established under paragraph (2)(A).

"(D) REGISTRATION.—The term 'registration' means the process for registering a motor vehicle in a State (including registration renewal).

"(E) STATE.—The term 'State' has the meaning given the term in section 101(a).

"(2) GRANTS.—

"(A) ESTABLISHMENT OF PROGRAM.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall establish a program under which the Secretary shall provide grants to States for use in developing and implementing State processes for informing each applicable owner and lessee of a motor vehicle of any open recall on the motor vehicle at the time of registration of the motor vehicle in the State, in accordance with this paragraph.

"(B) ELIGIBILITY.—To be eligible to receive a grant under the program, a State shall—

"(i) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require; and

"(ii) agree—

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"(I) to notify each owner or lessee of a motor vehicle presented for registration in the State of any open recall on that motor vehicle; and

"(II) to provide to each owner or lessee of a motor vehicle presented for registration, at no cost—

"(aa) the open recall information for the motor vehicle; and

"(bb) such other information as the Secretary may require.

"(C) FACTORS FOR CONSIDERATION.—In selecting grant recipients under the program, the Secretary shall take into consideration the methodology of a State for—

"(i) identifying open recalls on a motor vehicle;

"(ii) informing each owner and lessee of a motor vehicle of an open recall; and

"(iii) measuring performance in—

"(I) informing owners and lessees of open recalls; and

"(II) remedying open recalls.

"(D) PERFORMANCE PERIOD.—A grant provided under the program shall require a performance period of 2 years.

"(E) REPORT.—Not later than 90 days after the date of completion of the performance period under subparagraph (D), each State that receives a grant under the program shall submit to the Secretary a report that contains such information as the Secretary considers to be necessary to evaluate the extent to which open recalls have been remedied in the State.

"(F) NO REGULATIONS REQUIRED.—Notwithstanding any other provision of law, the Secretary shall not be required to issue any regulations to carry out the program.

"(3) PAPERWORK REDUCTION ACT.—Chapter 35 of title 44 (commonly known as the 'Paperwork Reduction Act') shall not apply to information collected under the program.

"(4) FUNDING.—

"(A) IN GENERAL.—For each of fiscal years 2022 through 2026, the Secretary shall obligate from funds made available to carry out this section $1,500,000 to carry out the program.

"(B) REALLOCATION.—To ensure, to the maximum extent practicable, that all amounts described in subparagraph (A) are obligated each fiscal year, the Secretary, before the last day of any fiscal year, may reallocate any of those amounts remaining available to increase the amounts made available to carry out any other activities authorized under this section.

"(m) INNOVATIVE HIGHWAY SAFETY COUNTERMEASURES.—

"(1) IN GENERAL.—In conducting research under this section, the Secretary shall evaluate the effectiveness of innovative behavioral traffic safety countermeasures, other than traffic enforcement, that are considered promising or likely to be effective for the purpose of enriching revisions to the document entitled 'Countermeasures That Work: A Highway Safety Countermeasure Guide for State Highway Safety Offices, Ninth Edition' and numbered DOT HS 812 478 (or any successor document).

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"(2) TREATMENT.—The research described in paragraph (1) shall be in addition to any other research carried out under this section.".

SEC. 24104. HIGH-VISIBILITY ENFORCEMENT PROGRAMS.

Section 404(a) of title 23, United States Code, is amended by striking "each of fiscal years 2016 through 2020" and inserting "each of fiscal years 2022 through 2026".

SEC. 24105. NATIONAL PRIORITY SAFETY PROGRAMS.

(a) IN GENERAL.—Section 405 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraphs (6) and (9);

(B) by redesignating paragraphs (1) through (5) as paragraphs (2) through (6), respectively;

(C) by striking the subsection designation and heading and all that follows through "the following:" in the matter preceding paragraph (2) (as so redesignated) and inserting the following:

"(a) PROGRAM AUTHORITY.—

"(1) IN GENERAL.—Subject to the requirements of this section, the Secretary shall—

"(A) manage programs to address national priorities for reducing highway deaths and injuries; and

"(B) allocate funds for the purpose described in subparagraph (A) in accordance with this subsection.";

(D) in paragraph (4) (as so redesignated), by striking "52.5 percent" and inserting "53 percent";

(E) in paragraph (7)—

(i) by striking "5 percent" and inserting "7 percent"; and

(ii) by striking "subsection (h)" and inserting "subsection (g)";

(F) by redesignating paragraphs (8) and (10) as paragraphs (10) and (11), respectively;

(G) by inserting after paragraph (7) the following:

"(8) PREVENTING ROADSIDE DEATHS.—In each fiscal year, 1 percent of the funds provided under this section shall be allocated among States that meet requirements with respect to preventing roadside deaths under subsection (h).

"(9) DRIVER OFFICER SAFETY EDUCATION.—In each fiscal year, 1.5 percent of the funds provided under this section shall be allocated among States that meet requirements with respect to driver and officer safety education under subsection (i).";

and

(H) in paragraph (10) (as so redesignated)—

(i) by striking "(1) through (7)" and inserting "(2) through (9)"; and

(ii) by striking "(b) through (h)" and inserting "(b) through (i)";

(2) in subsection (b)—

(A) in paragraph (1), by striking "of Transportation";

(B) in paragraph (3)(B)(ii)(VI)(aa), by striking "3-year" and inserting "5-year"; and

(C) in paragraph (4)—

(i) in subparagraph (A), by striking clause (v) and inserting the following:

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"(v) implement programs—

"(I) to recruit and train nationally certified child passenger safety technicians among police officers, fire and other first responders, emergency medical personnel, and other individuals or organizations serving low-income and underserved populations;

"(II) to educate parents and caregivers in low-income and underserved populations regarding the importance of proper use and correct installation of child restraints on every trip in a motor vehicle; and

"(III) to purchase and distribute child restraints to low-income and underserved populations; and"; and

(ii) by striking subparagraph (B) and inserting the following:

"(B) REQUIREMENTS.—Each State that is eligible to receive funds—

"(i) under paragraph (3)(A) shall use—

"(I) not more than 90 percent of those funds to carry out a project or activity eligible for funding under section 402; and

"(II) not less than 10 percent of those funds to carry out subparagraph (A)(v); and

"(ii) under paragraph (3)(B) shall use not less than 10 percent of those funds to carry out the activities described in subparagraph (A)(v).";

(3) in subsection (c)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking "of Transportation"; and

(ii) in subparagraph (D), by striking "States; and" and inserting "States, including the National EMS Information System;";

(B) in paragraph (3)—

(i) by striking the paragraph designation and heading and all that follows through "has a functioning" in subparagraph (A) and inserting the following:

"(3) ELIGIBILITY.—A State shall not be eligible to receive a grant under this subsection for a fiscal year unless the State—

"(A) has certified to the Secretary that the State—

"(i) has a functioning";

(ii) in subparagraph (B)—

(I) by adding "and" after the semicolon at the end; and

(II) by redesignating the subparagraph as clause (ii) of subparagraph (A) and indenting the clause appropriately;

(iii) in subparagraph (C)—

(I) by adding "and" after the semicolon at the end; and

(II) by redesignating the subparagraph as clause (iii) of subparagraph (A) and indenting the clause appropriately;

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(iv) by redesignating subparagraph (D) as subparagraph (B);

(v) in clause (vi) of subparagraph (B) (as so redesignated), by striking "; and" and inserting a period; and

(vi) by striking subparagraph (E);

(C) by striking paragraph (4) and inserting the following:

"(4) USE OF GRANT AMOUNTS.—A State may use a grant received under this subsection to make data program improvements to core highway safety databases relating to quantifiable, measurable progress in any significant data program attribute described in paragraph (3)(B), including through—

"(A) software or applications to identify, collect, and report data to State and local government agencies, and enter data into State core highway safety databases, including crash, citation or adjudication, driver, emergency medical services or injury surveillance system, roadway, and vehicle data;

"(B) purchasing equipment to improve a process by which data are identified, collated, and reported to State and local government agencies, including technology for use by law enforcement for near-real time, electronic reporting of crash data;

"(C) improving the compatibility and interoperability of the core highway safety databases of the State with national data systems and data systems of other States, including the National EMS Information System;

"(D) enhancing the ability of a State and the Secretary to observe and analyze local, State, and national trends in crash occurrences, rates, outcomes, and circumstances;

"(E) supporting traffic records improvement training and expenditures for law enforcement, emergency medical, judicial, prosecutorial, and traffic records professionals;

"(F) hiring traffic records professionals for the purpose of improving traffic information systems (including a State Fatal Accident Reporting System (FARS) liaison);

"(G) adoption of the Model Minimum Uniform Crash Criteria, or providing to the public information regarding why any of those criteria will not be used, if applicable;

"(H) supporting reporting criteria relating to emerging topics, including—

"(i) impaired driving as a result of drug, alcohol, or polysubstance consumption; and

"(ii) advanced technologies present on motor vehicles; and

"(I) conducting research relating to State traffic safety information systems, including developing programs to improve core highway safety databases and processes by which data are identified, collected, reported to State and local government agencies, and entered into State core safety databases."; and

(D) by adding at the end the following:

"(6) TECHNICAL ASSISTANCE.—

"(A) IN GENERAL.—The Secretary shall provide technical assistance to States, regardless of whether a State receives a grant under this subsection, with respect to

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improving the timeliness, accuracy, completeness, uniformity, integration, and public accessibility of State safety data that are needed to identify priorities for Federal, State, and local highway and traffic safety programs, including on adoption by a State of the Model Minimum Uniform Crash Criteria.

"(B) FUNDS.—The Secretary may use not more than 3 percent of the amounts available under this subsection to carry out subparagraph (A).";

(4) in subsection (d)—

(A) in paragraph (4)—

(i) in subparagraph (B)—

(I) by striking clause (iii) and inserting the following:

"(iii) court support of impaired driving prevention efforts, including—

"(I) hiring criminal justice professionals, including law enforcement officers, prosecutors, traffic safety resource prosecutors, judges, judicial outreach liaisons, and probation officers;

"(II) training and education of those professionals to assist the professionals in preventing impaired driving and handling impaired driving cases, including by providing compensation to a law enforcement officer to carry out safety grant activities to replace a law enforcement officer who is receiving drug recognition expert training or participating as an instructor in that drug recognition expert training; and

"(III) establishing driving while intoxicated courts;";

(II) by striking clause (v) and inserting the following:

"(v) improving blood alcohol and drug concentration screening and testing, detection of potentially impairing drugs (including through the use of oral fluid as a specimen), and reporting relating to testing and detection;";

(III) in clause (vi), by striking "conducting standardized field sobriety training, advanced roadside impaired driving evaluation training, and" and inserting "conducting initial and continuing standardized field sobriety training, advanced roadside impaired driving evaluation training, law enforcement phlebotomy training, and";

(IV) in clause (ix), by striking "and" at the end;

(V) in clause (x), by striking the period at the end and inserting "; and"; and

(VI) by adding at the end the following:

"(xi) testing and implementing programs, and purchasing technologies, to better identify, monitor, or treat impaired drivers, including—

"(I) oral fluid-screening technologies;

"(II) electronic warrant programs;

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"(III) equipment to increase the scope, quantity, quality, and timeliness of forensic toxicology chemical testing;

"(IV) case management software to support the management of impaired driving offenders; and

"(V) technology to monitor impaired-driving offenders, and equipment and related expenditures used in connection with impaired-driving enforcement in accordance with criteria established by the National Highway Traffic Safety Administration."; and

(ii) in subparagraph (C)—

(I) in the second sentence, by striking "Medium-range" and inserting the following:

"(ii) MEDIUM-RANGE AND HIGH-RANGE STATES.—Subject to clause (iii), medium-range";

(II) in the first sentence, by striking "Low-range" and inserting the following:

"(i) LOW-RANGE STATES.—Subject to clause (iii), low-range"; and

(III) by adding at the end the following:

"(iii) REPORTING AND IMPAIRED DRIVING MEASURES.—A State may use grant funds for any expenditure relating to—

"(I) increasing the timely and accurate reporting to Federal, State, and local databases of—

"(aa) crash information, including electronic crash reporting systems that allow accurate real- or near-real-time uploading of crash information; and

"(bb) impaired driving criminal justice information; or

"(II) researching or evaluating impaired driving countermeasures.";

(B) in paragraph (6)—

(i) by striking subparagraph (A) and inserting the following:

"(A) GRANTS TO STATES WITH ALCOHOL-IGNITION INTERLOCK LAWS.—The Secretary shall make a separate grant under this subsection to each State that—

"(i) adopts, and is enforcing, a mandatory alcohol-ignition interlock law for all individuals convicted of driving under the influence of alcohol or of driving while intoxicated;

"(ii) does not allow an individual convicted of driving under the influence of alcohol or of driving while intoxicated to receive any driving privilege or driver's license unless the individual installs on each motor vehicle registered, owned, or leased for operation by the individual an ignition interlock for a period of not less than 180 days; or

"(iii) has in effect, and is enforcing—

"(I) a State law requiring for any individual who is convicted of, or the driving privilege of whom is revoked or denied for, refusing to submit to a chemical or other appropriate test for the

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purpose of determining the presence or concentration of any intoxicating substance, a State law requiring a period of not less than 180 days of ignition interlock installation on each motor vehicle to be operated by the individual; and

"(II) a compliance-based removal program, under which an individual convicted of driving under the influence of alcohol or of driving while intoxicated shall—

"(aa) satisfy a period of not less than 180 days of ignition interlock installation on each motor vehicle to be operated by the individual; and

"(bb) have completed a minimum consecutive period of not less than 40 percent of the required period of ignition interlock installation immediately preceding the date of release of the individual, without a confirmed violation."; and

(ii) in subparagraph (D), by striking "2009" and inserting "2022"; and

(C) in paragraph (7)(A), in the matter preceding clause (i), by inserting "or local" after "authorizes a State";

(5) in subsection (e)—

(A) by striking paragraphs (6) and (8);

(B) by redesignating paragraphs (1), (2), (3), (4), (5), (7), and (9) as paragraphs (2), (4), (6), (7), (8), (9), and (1), respectively, and moving the paragraphs so as to appear in numerical order;

(C) in paragraph (1) (as so redesignated)—

(i) in the matter preceding subparagraph (A), by striking ", the following definitions apply";

(ii) by striking subparagraph (B) and inserting the following:

"(B) PERSONAL WIRELESS COMMUNICATIONS DEVICE.—

"(i) IN GENERAL.—The term 'personal wireless communications device' means—

"(I) a device through which personal wireless services (as defined in section 332(c)(7)(C) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(C))) are transmitted; and

"(II) a mobile telephone or other portable electronic communication device with which a user engages in a call or writes, sends, or reads a text message using at least 1 hand.

"(ii) EXCLUSION.—The term 'personal wireless communications device' does not include a global navigation satellite system receiver used for positioning, emergency notification, or navigation purposes."; and

(iii) by striking subparagraph (E) and inserting the following:

"(E) TEXT.—The term 'text' means—

"(i) to read from, or manually to enter data into, a personal wireless communications device, including

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for the purpose of SMS texting, emailing, instant messaging, or any other form of electronic data retrieval or electronic data communication; and

"(ii) manually to enter, send, or retrieve a text message to communicate with another individual or device.

"(F) TEXT MESSAGE.—

"(i) IN GENERAL.—The term 'text message' means—

"(I) a text-based message;

"(II) an instant message;

"(III) an electronic message; and

"(IV) email.

"(ii) EXCLUSIONS.—The term 'text message' does not include—

"(I) an emergency, traffic, or weather alert; or

"(II) a message relating to the operation or navigation of a motor vehicle.";

(D) by striking paragraph (2) (as so redesignated) and inserting the following:

"(2) GRANT PROGRAM.—The Secretary shall provide a grant under this subsection to any State that includes distracted driving awareness as part of the driver's license examination of the State.

"(3) ALLOCATION.—

"(A) IN GENERAL.—For each fiscal year, not less than 50 percent of the amounts made available to carry out this subsection shall be allocated to States, based on the proportion that—

"(i) the apportionment of the State under section 402 for fiscal year 2009; bears to

"(ii) the apportionment of all States under section 402 for that fiscal year.

"(B) GRANTS FOR STATES WITH DISTRACTED DRIVING LAWS.—

"(i) IN GENERAL.—In addition to the allocations under subparagraph (A), for each fiscal year, not more than 50 percent of the amounts made available to carry out this subsection shall be allocated to States that enact and enforce a law that meets the requirements of paragraph (4), (5), or (6)—

"(I) based on the proportion that—

"(aa) the apportionment of the State under section 402 for fiscal year 2009; bears to

"(bb) the apportionment of all States under section 402 for that fiscal year; and

"(II) subject to clauses (ii), (iii), and (iv), as applicable.

"(ii) PRIMARY LAWS.—Subject to clause (iv), in the case of a State that enacts and enforces a law that meets the requirements of paragraph (4), (5), or (6) as a primary offense, the allocation to the State under this subparagraph shall be 100 percent of the amount calculated to be allocated to the State under clause (i)(I).

"(iii) SECONDARY LAWS.—Subject to clause (iv), in the case of a State that enacts and enforces a law

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that meets the requirements of paragraph (4), (5), or (6) as a secondary enforcement action, the allocation to the State under this subparagraph shall be an amount equal to 50 percent of the amount calculated to be allocated to the State under clause (i)(I).

"(iv) TEXTING WHILE DRIVING.—Notwithstanding clauses (ii) and (iii), the allocation under this subparagraph to a State that enacts and enforces a law that prohibits a driver from viewing a personal wireless communications device (except for purposes of navigation) shall be 25 percent of the amount calculated to be allocated to the State under clause (i)(I).";

(E) in paragraph (4) (as so redesignated)—

(i) in the matter preceding subparagraph (A), by striking "set forth in this" and inserting "of this";

(ii) by striking subparagraph (B);

(iii) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively;

(iv) in subparagraph (B) (as so redesignated), by striking "minimum"; and

(v) in subparagraph (C) (as so redesignated), by striking "text through a personal wireless communication device" and inserting "use a personal wireless communications device for texting";

(F) by inserting after paragraph (4) (as so redesignated) the following:

"(5) PROHIBITION ON HANDHELD PHONE USE WHILE DRIVING.—A State law meets the requirements of this paragraph if the law—

"(A) prohibits a driver from holding a personal wireless communications device while driving;

"(B) establishes a fine for a violation of that law; and

"(C) does not provide for an exemption that specifically allows a driver to use a personal wireless communications device for texting while stopped in traffic.";

(G) in paragraph (6) (as so redesignated)—

(i) in the matter preceding subparagraph (A), by striking "set forth in this" and inserting "of this";

(ii) in subparagraph (A)(ii), by striking "set forth in subsection (g)(2)(B)";

(iii) by striking subparagraphs (B) and (D);

(iv) by redesignating subparagraph (C) as subparagraph (B);

(v) in subparagraph (B) (as so redesignated), by striking "minimum"; and

(vi) by adding at the end the following:

"(C) does not provide for—

"(i) an exemption that specifically allows a driver to use a personal wireless communications device for texting while stopped in traffic; or

"(ii) an exemption described in paragraph (7)(E).";

and

(H) in paragraph (7) (as so redesignated)—

(i) in the matter preceding subparagraph (A), by striking "set forth in paragraph (2) or (3)" and inserting "of paragraph (4), (5), or (6)";

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(ii) by striking subparagraph (A) and inserting the following:

"(A) a driver who uses a personal wireless communications device during an emergency to contact emergency services to prevent injury to persons or property;";

(iii) in subparagraph (C), by striking "and" at the end;

(iv) by redesignating subparagraph (D) as subparagraph (F); and

(v) by inserting after subparagraph (C) the following:

"(D) a driver who uses a personal wireless communications device for navigation;

"(E) except for a law described in paragraph (6), the use of a personal wireless communications device—

"(i) in a hands-free manner;

"(ii) with a hands-free accessory; or

"(iii) with the activation or deactivation of a feature or function of the personal wireless communications device with the motion of a single swipe or tap of the finger of the driver; and";

(6) in subsection (f)(3)—

(A) in subparagraph (A)(i), by striking "accident" and inserting "crash";

(B) by redesignating subparagraphs (C) through (F) as subparagraphs (D) through (G), respectively;

(C) by inserting after subparagraph (B) the following:

"(C) HELMET LAW.—A State law requiring the use of a helmet for each motorcycle rider under the age of 18."; and

(D) in subparagraph (F) (as so redesignated), in the subparagraph heading, by striking "ACCIDENTS" and inserting "CRASHES";

(7) by striking subsection (g);

(8) by redesignating subsection (h) as subsection (g);

(9) in subsection (g) (as so redesignated)—

(A) by redesignating paragraphs (1) through (5) as paragraphs (2) through (6), respectively;

(B) by inserting before paragraph (2) (as so redesignated) the following:

"(1) DEFINITION OF NONMOTORIZED ROAD USER.—In this subsection, the term 'nonmotorized road user' means—

"(A) a pedestrian;

"(B) an individual using a nonmotorized mode of transportation, including a bicycle, a scooter, or a personal conveyance; and

"(C) an individual using a low-speed or low-horsepower motorized vehicle, including an electric bicycle, electric scooter, personal mobility assistance device, personal transporter, or all-terrain vehicle.";

(C) in paragraph (2) (as so redesignated), by striking "pedestrian and bicycle fatalities and injuries that result from crashes involving a motor vehicle" and inserting "nonmotorized road user fatalities involving a motor vehicle in transit on a trafficway";

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(D) in paragraph (4) (as so redesignated), by striking "pedestrian and bicycle" and inserting "nonmotorized road user"; and

(E) by striking paragraph (5) (as so redesignated) and inserting the following:

"(5) USE OF GRANT AMOUNTS.—Grant funds received by a State under this subsection may be used for the safety of nonmotorized road users, including—

"(A) training of law enforcement officials relating to nonmotorized road user safety, State laws applicable to nonmotorized road user safety, and infrastructure designed to improve nonmotorized road user safety;

"(B) carrying out a program to support enforcement mobilizations and campaigns designed to enforce State traffic laws applicable to nonmotorized road user safety;

"(C) public education and awareness programs designed to inform motorists and nonmotorized road users regarding—

"(i) nonmotorized road user safety, including information relating to nonmotorized mobility and the importance of speed management to the safety of nonmotorized road users;

"(ii) the value of the use of nonmotorized road user safety equipment, including lighting, conspicuity equipment, mirrors, helmets, and other protective equipment, and compliance with any State or local laws requiring the use of that equipment;

"(iii) State traffic laws applicable to nonmotorized road user safety, including the responsibilities of motorists with respect to nonmotorized road users; and

"(iv) infrastructure designed to improve nonmotorized road user safety; and

"(D) the collection of data, and the establishment and maintenance of data systems, relating to nonmotorized road user traffic fatalities."; and

(10) by adding at the end the following:

"(h) PREVENTING ROADSIDE DEATHS.—

"(1) IN GENERAL.—The Secretary shall provide grants to States to prevent death and injury from crashes involving motor vehicles striking other vehicles and individuals stopped at the roadside.

"(2) FEDERAL SHARE.—The Federal share of the cost of carrying out an activity funded through a grant under this subsection may not exceed 80 percent.

"(3) ELIGIBILITY.—A State shall receive a grant under this subsection in a fiscal year if the State submits to the Secretary a plan that describes the method by which the State will use grant funds in accordance with paragraph (4).

"(4) USE OF FUNDS.—Amounts received by a State under this subsection shall be used by the State—

"(A) to purchase and deploy digital alert technology that—

"(i) is capable of receiving alerts regarding nearby first responders; and

"(ii) in the case of a motor vehicle that is used for emergency response activities, is capable of sending

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alerts to civilian drivers to protect first responders on the scene and en route;

"(B) to educate the public regarding the safety of vehicles and individuals stopped at the roadside in the State through public information campaigns for the purpose of reducing roadside deaths and injury;

"(C) for law enforcement costs relating to enforcing State laws to protect the safety of vehicles and individuals stopped at the roadside;

"(D) for programs to identify, collect, and report to State and local government agencies data relating to crashes involving vehicles and individuals stopped at the roadside; and

"(E) to pilot and incentivize measures, including optical visibility measures, to increase the visibility of stopped and disabled vehicles.

"(5) GRANT AMOUNT.—The allocation of grant funds to a State under this subsection for a fiscal year shall be in proportion to the apportionment of that State under section 402 for fiscal year 2022.

"(i) DRIVER AND OFFICER SAFETY EDUCATION.—

"(1) DEFINITION OF PEACE OFFICER.—In this subsection, the term 'peace officer' includes any individual—

"(A) who is an elected, appointed, or employed agent of a government entity;

"(B) who has the authority—

"(i) to carry firearms; and

"(ii) to make warrantless arrests; and

"(C) whose duties involve the enforcement of criminal laws of the United States.

"(2) GRANTS.—Subject to the requirements of this subsection, the Secretary shall provide grants to—

"(A) States that enact or adopt a law or program described in paragraph (4); and

"(B) qualifying States under paragraph (7).

"(3) FEDERAL SHARE.—The Federal share of the cost of carrying out an activity funded through a grant under this subsection may not exceed 80 percent.

"(4) DESCRIPTION OF LAW OR PROGRAM.—A law or program referred to in paragraph (2)(A) is a law or program that requires 1 or more of the following:

"(A) DRIVER EDUCATION AND DRIVING SAFETY COURSES.—The inclusion, in driver education and driver safety courses provided to individuals by educational and motor vehicle agencies of the State, of instruction and testing relating to law enforcement practices during traffic stops, including information relating to—

"(i) the role of law enforcement and the duties and responsibilities of peace officers;

"(ii) the legal rights of individuals concerning interactions with peace officers;

"(iii) best practices for civilians and peace officers during those interactions;

"(iv) the consequences for failure of an individual or officer to comply with the law or program; and

"(v) how and where to file a complaint against, or a compliment relating to, a peace officer.

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"(B) PEACE OFFICER TRAINING PROGRAMS.—Development and implementation of a training program, including instruction and testing materials, for peace officers and reserve law enforcement officers (other than officers who have received training in a civilian course described in subparagraph (A)) with respect to proper interaction with civilians during traffic stops.

"(5) USE OF FUNDS.—A State may use a grant provided under this subsection for—

"(A) the production of educational materials and training of staff for driver education and driving safety courses and peace officer training described in paragraph (4); and

"(B) the implementation of a law or program described in paragraph (4).

"(6) GRANT AMOUNT.—The allocation of grant funds to a State under this subsection for a fiscal year shall be in proportion to the apportionment of that State under section 402 for fiscal year 2022.

"(7) SPECIAL RULE FOR CERTAIN STATES.—

"(A) DEFINITION OF QUALIFYING STATE.—In this paragraph, the term 'qualifying State' means a State that—

"(i) has received a grant under this subsection for a period of not more than 5 years; and

"(ii) as determined by the Secretary—

"(I) has not fully enacted or adopted a law or program described in paragraph (4); but

"(II)(aa) has taken meaningful steps toward the full implementation of such a law or program; and

"(bb) has established a timetable for the implementation of such a law or program.

"(B) WITHHOLDING.—The Secretary shall—

"(i) withhold 50 percent of the amount that each qualifying State would otherwise receive under this subsection if the qualifying State were a State described in paragraph (2)(A); and

"(ii) direct any amounts withheld under clause (i) for distribution among the States that are enforcing and carrying out a law or program described in paragraph (4).".

(b) TECHNICAL AMENDMENT.—Section 4010(2) of the FAST Act (23 U.S.C. 405 note; Public Law 114–94) is amended by inserting "all" before "deficiencies".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to any grant application or State highway safety plan submitted under chapter 4 of title 23, United States Code, for fiscal year 2024 or thereafter.

SEC. 24106. MULTIPLE SUBSTANCE-IMPAIRED DRIVING PREVENTION.

(a) IMPAIRED DRIVING COUNTERMEASURES.—Section 154(c)(1) of title 23, United States Code, is amended by striking "alcohol-impaired" each place it appears and inserting "impaired".

(b) COMPTROLLER GENERAL STUDY OF NATIONAL DUI REPORTING.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the reporting of impaired driving

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arrest and citation data into Federal databases and the interstate sharing of information relating to impaired driving-related convictions and license suspensions to facilitate the widespread identification of repeat impaired driving offenders.

(2) INCLUSIONS.—The study conducted under paragraph (1) shall include a detailed assessment of—

(A) the extent to which State and local criminal justice agencies are reporting impaired driving arrest and citation data to Federal databases;

(B) barriers—

(i) at the Federal, State, and local levels, to the reporting of impaired driving arrest and citation data to Federal databases; and

(ii) to the use of those databases by criminal justice agencies;

(C) Federal, State, and local resources available to improve the reporting and sharing of impaired driving data; and

(D) any options or recommendations for actions that Federal agencies or Congress could take to further improve the reporting and sharing of impaired driving data.

(3) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the appropriate committees of Congress a report describing the results of the study conducted under this subsection.

SEC. 24107. MINIMUM PENALTIES FOR REPEAT OFFENDERS FOR DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE.

Section 164(b)(1) of title 23, United States Code, is amended—

(1) in subparagraph (A), by striking "alcohol-impaired" and inserting "alcohol- or multiple substance-impaired"; and

(2) in subparagraph (B)—

(A) by striking "intoxicated or driving" and inserting "intoxicated, driving while multiple substance-impaired, or driving"; and

(B) by striking "alcohol-impaired" and inserting "alcohol- or multiple substance-impaired".

SEC. 24108. CRASH DATA.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary shall revise the crash data collection system to include the collection of crash report data elements that distinguish individual personal conveyance vehicles, such as electric scooters and bicycles, from other vehicles involved in a crash.

(b) COORDINATION.—In carrying out subsection (a), the Secretary may coordinate with States to update the Model Minimum Uniform Crash Criteria to provide guidance to States regarding the collection of information and data elements for the crash data collection system.

(c) VULNERABLE ROAD USERS.—

(1) UPDATE.—Based on the information contained in the vulnerable road user safety assessments required by subsection (f) of section 32302 of title 49, United States Code (as added by section 24213(b)(2)), the Secretary shall modify existing

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crash data collection systems to include the collection of additional crash report data elements relating to vulnerable road user safety.

(2) INJURY HEALTH DATA.—The Secretary shall coordinate with the Director of the Centers for Disease Control and Prevention to develop and implement a plan for States to combine highway crash data and injury health data to produce a national database of pedestrian injuries and fatalities, disaggregated by demographic characteristics.

(d) STATE ELECTRONIC DATA COLLECTION.—

(1) DEFINITIONS.—In this subsection:

(A) ELECTRONIC DATA TRANSFER.—The term "electronic data transfer" means a protocol for automated electronic transfer of State crash data to the National Highway Traffic Safety Administration.

(B) STATE.—The term "State" means—

(i) each of the 50 States;

(ii) the District of Columbia;

(iii) the Commonwealth of Puerto Rico;

(iv) the United States Virgin Islands;

(v) Guam;

(vi) American Samoa;

(vii) the Commonwealth of the Northern Mariana Islands; and

(viii) the Secretary of the Interior, acting on behalf of an Indian Tribe.

(2) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program under which the Secretary shall—

(A) provide grants for the modernization of State data collection systems to enable full electronic data transfer under paragraph (3); and

(B) upgrade the National Highway Traffic Safety Administration system to manage and support State electronic data transfers relating to crashes under paragraph (4).

(3) STATE GRANTS.—

(A) IN GENERAL.—The Secretary shall provide grants to States to upgrade and standardize State crash data systems to enable electronic data collection, intrastate data sharing, and electronic data transfers to the National Highway Traffic Safety Administration to increase the accuracy, timeliness, and accessibility of the data, including data relating to fatalities involving vulnerable road users.

(B) ELIGIBILITY.—A State shall be eligible to receive a grant under this paragraph if the State submits to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, that includes a plan to implement full electronic data transfer to the National Highway Traffic Safety Administration by not later than 5 years after the date on which the grant is provided.

(C) USE OF FUNDS.—A grant provided under this paragraph may be used for the costs of—

(i) equipment to upgrade a statewide crash data repository;

(ii) adoption of electronic crash reporting by law enforcement agencies; and

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(iii) increasing alignment of State crash data with the latest Model Minimum Uniform Crash Criteria.

(D) FEDERAL SHARE.—The Federal share of the cost of a project funded with a grant under this paragraph may be up to 80 percent.

(4) NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION SYSTEM UPGRADE.—The Secretary shall manage and support State electronic data transfers relating to vehicle crashes by—

(A) increasing the capacity of the National Highway Traffic Safety Administration system; and

(B) making State crash data accessible to the public.

(e) CRASH INVESTIGATION SAMPLING SYSTEM.—The Secretary may use funds made available to carry out this section to enhance the collection of crash data by upgrading the Crash Investigation Sampling System to include—

(1) additional program sites;

(2) an expanded scope that includes all crash types; and

(3) on-scene investigation protocols.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $150,000,000 for each of fiscal years 2022 through 2026, to remain available for a period of 3 fiscal years following the fiscal year for which the amounts are appropriated.

SEC. 24109. REVIEW OF MOVE OVER OR SLOW DOWN LAW PUBLIC AWARENESS.

(a) DEFINITION OF MOVE OVER OR SLOW DOWN LAW.—In this section, the term "Move Over or Slow Down Law" means any Federal or State law intended to ensure first responder and motorist safety by requiring motorists to change lanes or slow down when approaching an authorized emergency vehicle that is stopped or parked on or next to a roadway with emergency lights activated.

(b) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall carry out a study of the efficacy of Move Over or Slow Down Laws and related public awareness campaigns.

(2) INCLUSIONS.—The study under paragraph (1) shall include—

(A) a review of each Federal and State Move Over or Slow Down Law, including—

(i) penalties associated with the Move Over or Slow Down Laws;

(ii) the level of enforcement of Move Over or Slow Down Laws; and

(iii) the applicable class of vehicles that triggers Move Over or Slow Down Laws.

(B) an identification and description of each Federal and State public awareness campaign relating to Move Over or Slow Down Laws; and

(C) a description of the role of the Department in supporting State efforts with respect to Move Over or Slow Down Laws, such as conducting research, collecting data, or supporting public awareness or education efforts.

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(c) REPORT.—On completion of the study under subsection (b), the Comptroller General shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes—

(1) the findings of the study; and

(2) any recommendations to improve public awareness campaigns, research, or education efforts relating to the issues described in subsection (b)(2).

SEC. 24110. REVIEW OF LAWS, SAFETY MEASURES, AND TECHNOLOGIES RELATING TO SCHOOL BUSES.

(a) REVIEW OF ILLEGAL PASSING LAWS.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall prepare a report that—

(A) identifies and describes all illegal passing laws in each State relating to school buses, including—

(i) the level of enforcement of those laws;

(ii) the penalties associated with those laws;

(iii) any issues relating to the enforcement of those laws; and

(iv) the effectiveness of those laws;

(B) reviews existing State laws that may inhibit the effectiveness of safety countermeasures in school bus loading zones, such as—

(i) laws that require the face of a driver to be visible in an image captured by a camera if enforcement action is to be taken based on that image;

(ii) laws that may reduce stop-arm camera effectiveness;

(iii) the need for a law enforcement officer to witness an event for enforcement action to be taken; and

(iv) the lack of primary enforcement for texting and driving offenses;

(C) identifies the methods used by each State to review, document, and report to law enforcement school bus stop-arm violations; and

(D) identifies best practices relating to the most effective approaches to address the illegal passing of school buses.

(2) PUBLICATION.—The report under paragraph (1) shall be made publicly available on the website of the Department.

(b) PUBLIC SAFETY MESSAGING CAMPAIGN.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish and implement a public safety messaging campaign that uses public safety media messages, posters, digital media messages, and other media messages distributed to States, State departments of motor vehicles, schools, and other public outlets—

(A) to highlight the importance of addressing the illegal passing of school buses; and

(B) to educate students and the public regarding the safe loading and unloading of schools buses.

(2) CONSULTATION.—In carrying out paragraph (1), the Secretary shall consult with—

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(A) representatives of the school bus industry from the public and private sectors; and

(B) States.

(3) UPDATES.—The Secretary shall periodically update the materials used in the campaign under paragraph (1).

(c) REVIEW OF TECHNOLOGIES.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall review and evaluate the effectiveness of various technologies for enhancing school bus safety, including technologies such as—

(A) cameras;

(B) audible warning systems; and

(C) enhanced lighting.

(2) INCLUSIONS.—The review under paragraph (1)—

(A) shall include—

(i) an assessment of—

(I) the costs of acquiring and operating new equipment;

(II) the potential impact of that equipment on overall school bus ridership; and

(III) motion-activated detection systems capable of—

(aa) detecting pedestrians, cyclists, and other road users located near the exterior of the school bus; and

(bb) alerting the operator of the school bus of those road users;

(ii) an assessment of the impact of advanced technologies designed to improve loading zone safety; and

(iii) an assessment of the effectiveness of school bus lighting systems at clearly communicating to surrounding drivers the appropriate actions those drivers should take; and

(B) may include an evaluation of any technological solutions that may enhance school bus safety outside the school bus loading zone.

(3) CONSULTATION.—In carrying out the review under paragraph (1), the Secretary shall consult with—

(A) manufacturers of school buses;

(B) manufacturers of various technologies that may enhance school bus safety; and

(C) representatives of the school bus industry from the public and private sectors.

(4) PUBLICATION.—The Secretary shall make the findings of the review under paragraph (1) publicly available on the website of the Department.

(d) REVIEW OF DRIVER EDUCATION MATERIALS.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall—

(A) review driver manuals, handbooks, and other materials in all States to determine whether and the means by which illegal passing of school buses is addressed in those driver materials, including in—

(i) testing for noncommercial driver's licenses; and

(ii) road tests; and

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(B) make recommendations on methods by which States can improve education regarding the illegal passing of school buses, particularly for new drivers.

(2) CONSULTATION.—In carrying out paragraph (1), the Secretary shall consult with—

(A) representatives of the school bus industry from the public and private sectors;

(B) States;

(C) State motor vehicle administrators or senior State executives responsible for driver licensing; and

(D) other appropriate motor vehicle experts.

(3) PUBLICATION.—The Secretary shall make the findings of the review under paragraph (1) publicly available on the website of the Department.

(e) REVIEW OF OTHER SAFETY ISSUES.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall research and prepare a report describing any relationship between the illegal passing of school buses and other safety issues, including issues such as—

(A) distracted driving;

(B) poor visibility, such as morning darkness;

(C) illumination and reach of vehicle headlights;

(D) speed limits; and

(E) characteristics associated with school bus stops, including the characteristics of school bus stops in rural areas.

(2) PUBLICATION.—The Secretary shall make the report under paragraph (1) publicly available on the website of the Department.

SEC. 24111. MOTORCYCLIST ADVISORY COUNCIL.

(a) IN GENERAL.—Subchapter III of chapter 3 of title 49, United States Code, is amended by adding at the end the following:

"§ 355. Motorcyclist Advisory Council

"(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this section, the Secretary of Transportation (referred to in this section as the 'Secretary') shall establish a council, to be known as the 'Motorcyclist Advisory Council' (referred to in this section as the 'Council').

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The Council shall be comprised of 13 members, to be appointed by the Secretary, of whom—

"(A) 5 shall be representatives of units of State or local government with expertise relating to highway engineering and safety issues, including—

"(i) motorcycle and motorcyclist safety;

"(ii) barrier and road design, construction, and maintenance; or

"(iii) intelligent transportation systems;

"(B) 1 shall be a motorcyclist who serves as a State or local—

"(i) traffic and safety engineer;

"(ii) design engineer; or

"(iii) other transportation department official;

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"(C) 1 shall be a representative of a national association of State transportation officials;

"(D) 1 shall be a representative of a national motorcyclist association;

"(E) 1 shall be a representative of a national motorcyclist foundation;

"(F) 1 shall be a representative of a national motorcycle manufacturing association;

"(G) 1 shall be a representative of a motorcycle manufacturing company headquartered in the United States;

"(H) 1 shall be a roadway safety data expert with expertise relating to crash testing and analysis; and

"(I) 1 shall be a member of a national safety organization that represents the traffic safety systems industry.

"(2) TERM.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), each member shall serve on the Council for a single term of 2 years.

"(B) ADDITIONAL TERM.—If a successor is not appointed for a member of the Council before the expiration of the term of service of the member, the member may serve on the Council for a second term of not longer than 2 years.

"(C) APPOINTMENT OF REPLACEMENTS.—If a member of the Council resigns before the expiration of the 2-year term of service of the member—

"(i) the Secretary may appoint a replacement for the member, who shall serve the remaining portion of the term; and

"(ii) the resigning member may continue to serve after resignation until the date on which a successor is appointed.

"(3) VACANCIES.—A vacancy on the Council shall be filled in the manner in which the original appointment was made.

"(4) COMPENSATION.—A member of the Council shall serve without compensation.

"(c) DUTIES.—

"(1) ADVISING.—The Council shall advise the Secretary, the Administrator of the National Highway Traffic Safety Administration, and the Administrator of the Federal Highway Administration regarding transportation safety issues of concern to motorcyclists, including—

"(A) motorcycle and motorcyclist safety;

"(B) barrier and road design, construction, and maintenance practices; and

"(C) the architecture and implementation of intelligent transportation system technologies.

"(2) BIENNIAL REPORT.—Not later than October 31 of the calendar year following the calendar year in which the Council is established, and not less frequently than once every 2 years thereafter, the Council shall submit to the Secretary a report containing recommendations of the Council regarding the issues described in paragraph (1).

"(d) DUTIES OF SECRETARY.—

"(1) COUNCIL RECOMMENDATIONS.—

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"(A) IN GENERAL.—The Secretary shall determine whether to accept or reject a recommendation contained in a report of the Council under subsection (c)(2).

"(B) INCLUSION IN REVIEW.—

"(i) IN GENERAL.—The Secretary shall indicate in each review under paragraph (2) whether the Secretary accepts or rejects each recommendation of the Council covered by the review.

"(ii) EXCEPTION.—The Secretary may indicate in a review under paragraph (2) that a recommendation of the Council is under consideration, subject to the condition that a recommendation so under consideration shall be accepted or rejected by the Secretary in the subsequent review of the Secretary under paragraph (2).

"(2) REVIEW.—

"(A) IN GENERAL.—Not later than 60 days after the date on which the Secretary receives a report from the Council under subsection (c)(2), the Secretary shall submit a review describing the response of the Secretary to the recommendations of the Council contained in the Council report to—

"(i) the Committee on Commerce, Science, and Transportation of the Senate;

"(ii) the Committee on Environment and Public Works of the Senate;

"(iii) the Subcommittee on Transportation, Housing and Urban Development, and Related Agencies of the Committee on Appropriations of the Senate;

"(iv) the Committee on Transportation and Infrastructure of the House of Representatives; and

"(v) the Subcommittee on Transportation, Housing and Urban Development, and Related Agencies of the Committee on Appropriations of the House of Representatives.

"(B) CONTENTS.—A review of the Secretary under this paragraph shall include a description of—

"(i) each recommendation contained in the Council report covered by the review; and

"(ii)(I) each recommendation of the Council that was categorized under paragraph (1)(B)(ii) as being under consideration by the Secretary in the preceding review submitted under this paragraph; and

"(II) for each such recommendation, whether the recommendation—

"(aa) is accepted or rejected by the Secretary; or

"(bb) remains under consideration by the Secretary.

"(3) ADMINISTRATIVE AND TECHNICAL SUPPORT.—The Secretary shall provide to the Council such administrative support, staff, and technical assistance as the Secretary determines to be necessary to carry out the duties of the Council under this section.

"(e) TERMINATION.—The Council shall terminate on the date that is 6 years after the date on which the Council is established under subsection (a).".

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(b) CLERICAL AMENDMENT.—The analysis for subchapter III of chapter 3 of title 49, United States Code, is amended by inserting after the item relating to section 354 the following:

"355. Motorcyclist Advisory Council.".

(c) CONFORMING AMENDMENTS.—

(1) Section 1426 of the FAST Act (23 U.S.C. 101 note; Public Law 114–94) is repealed.

(2) The table of contents for the FAST Act (Public Law 114–94; 129 Stat. 1313) is amended by striking the item relating to section 1426.

SEC. 24112. SAFE STREETS AND ROADS FOR ALL GRANT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) COMPREHENSIVE SAFETY ACTION PLAN.—The term "comprehensive safety action plan" means a plan aimed at preventing transportation-related fatalities and serious injuries in a locality, commonly referred to as a "Vision Zero" or "Toward Zero Deaths" plan, that may include—

(A) a goal and timeline for eliminating fatalities and serious injuries;

(B) an analysis of the location and severity of vehicle-involved crashes in a locality;

(C) an analysis of community input, gathered through public outreach and education;

(D) a data-driven approach to identify projects or strategies to prevent fatalities and serious injuries in a locality, such as those involving—

(i) education and community outreach;

(ii) effective methods to enforce traffic laws and regulations;

(iii) new vehicle or other transportation-related technologies; and

(iv) roadway planning and design; and

(E) mechanisms for evaluating the outcomes and effectiveness of the comprehensive safety action plan, including the means by which that effectiveness will be reported to residents in a locality.

(2) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a metropolitan planning organization;

(B) a political subdivision of a State;

(C) a federally recognized Tribal government; and

(D) a multijurisdictional group of entities described in any of subparagraphs (A) through (C).

(3) ELIGIBLE PROJECT.—The term "eligible project" means a project—

(A) to develop a comprehensive safety action plan;

(B) to conduct planning, design, and development activities for projects and strategies identified in a comprehensive safety action plan; or

(C) to carry out projects and strategies identified in a comprehensive safety action plan.

(4) PROGRAM.—The term "program" means the Safe Streets and Roads for All program established under subsection (b).

(b) ESTABLISHMENT.—The Secretary shall establish and carry out a program, to be known as the Safe Streets and Roads for All program, that supports local initiatives to prevent death and

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serious injury on roads and streets, commonly referred to as "Vision Zero" or "Toward Zero Deaths" initiatives.

(c) GRANTS.—

(1) IN GENERAL.—In carrying out the program, the Secretary may make grants to eligible entities, on a competitive basis, in accordance with this section.

(2) LIMITATIONS.—

(A) IN GENERAL.—Not more than 15 percent of the funds made available to carry out the program for a fiscal year may be awarded to eligible projects in a single State during that fiscal year.

(B) PLANNING GRANTS.—Of the total amount made available to carry out the program for each fiscal year, not less than 40 percent shall be awarded to eligible projects described in subsection (a)(3)(A).

(d) SELECTION OF ELIGIBLE PROJECTS.—

(1) SOLICITATION.—Not later than 180 days after the date on which amounts are made available to provide grants under the program for a fiscal year, the Secretary shall solicit from eligible entities grant applications for eligible projects in accordance with this section.

(2) APPLICATIONS.—

(A) IN GENERAL.—To be eligible to receive a grant under the program, an eligible entity shall submit to the Secretary an application in such form and containing such information as the Secretary considers to be appropriate.

(B) REQUIREMENT.—An application for a grant under this paragraph shall include mechanisms for evaluating the success of applicable eligible projects and strategies.

(3) CONSIDERATIONS.—In awarding a grant under the program, the Secretary shall take into consideration the extent to which an eligible entity, and each eligible project proposed to be carried out by the eligible entity, as applicable—

(A) is likely to significantly reduce or eliminate transportation-related fatalities and serious injuries involving various road users, including pedestrians, bicyclists, public transportation users, motorists, and commercial operators, within the timeframe proposed by the eligible entity;

(B) demonstrates engagement with a variety of public and private stakeholders;

(C) seeks to adopt innovative technologies or strategies to promote safety;

(D) employs low-cost, high-impact strategies that can improve safety over a wider geographical area;

(E) ensures, or will ensure, equitable investment in the safety needs of underserved communities in preventing transportation-related fatalities and injuries;

(F) includes evidence-based projects or strategies; and

(G) achieves such other conditions as the Secretary considers to be necessary.

(4) TRANSPARENCY.—

(A) IN GENERAL.—The Secretary shall evaluate, through a methodology that is discernible and transparent to the public, the means by, and extent to, which each application under the program addresses any applicable merit criteria established by the Secretary.

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(B) PUBLICATION.—The methodology under subparagraph (A) shall be published by the Secretary as part of the notice of funding opportunity under the program.

(e) FEDERAL SHARE.—The Federal share of the cost of an eligible project carried out using a grant provided under the program shall not exceed 80 percent.

(f) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $200,000,000 for each of fiscal years 2022 through 2026, to remain available for a period of 3 fiscal years following the fiscal year for which the amounts are appropriated.

(2) ADMINISTRATIVE EXPENSES.—Of the amounts made available to carry out the program for a fiscal year, the Secretary may retain not more than 2 percent for the administrative expenses of the program.

(3) AVAILABILITY TO ELIGIBLE ENTITIES.—Amounts made available under a grant under the program shall remain available for use by the applicable eligible entity until the date that is 5 years after the date on which the grant is provided.

(g) DATA SUBMISSION.—

(1) IN GENERAL.—As a condition of receiving a grant under this program, an eligible entity shall submit to the Secretary, on a regular basis as established by the Secretary, data, information, or analyses collected or conducted in accordance with subsection (d)(3).

(2) FORM.—The data, information, and analyses under paragraph (1) shall be submitted in such form such manner as may be prescribed by the Secretary.

(h) REPORTS.—Not later than 120 days after the end of the period of performance for a grant under the program, the eligible entity shall submit to the Secretary a report that describes—

(1) the costs of each eligible project carried out using the grant;

(2) the outcomes and benefits that each such eligible project has generated, as—

(A) identified in the grant application of the eligible entity; and

(B) measured by data, to the maximum extent practicable; and

(3) the lessons learned and any recommendations relating to future projects or strategies to prevent death and serious injury on roads and streets.

(i) BEST PRACTICES.—Based on the information submitted by eligible entities under subsection (g), the Secretary shall—

(1) periodically post on a publicly available website best practices and lessons learned for preventing transportation-related fatalities and serious injuries pursuant to strategies or interventions implemented under the program; and

(2) evaluate and incorporate, as appropriate, the effectiveness of strategies and interventions implemented under the program for the purpose of enriching revisions to the document entitled "Countermeasures That Work: A Highway Safety Countermeasure Guide for State Highway Safety Offices, Ninth Edition" and numbered DOT HS 812 478 (or any successor document).

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SEC. 24113. IMPLEMENTATION OF GAO RECOMMENDATIONS.

(a) NEXT GENERATION 911.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall implement the recommendations of the Comptroller General of the United States contained in the report entitled "Next Generation 911: National 911 Program Could Strengthen Efforts to Assist States", numbered GAO–18–252, and dated January 1, 2018, by requiring that the Administrator of the National Highway Traffic Safety Administration, in collaboration with the appropriate Federal agencies, shall determine the roles and responsibilities of the Federal agencies participating in the initiative entitled "National NG911 Roadmap initiative" to carry out the national-level tasks with respect which each agency has jurisdiction.

(2) IMPLEMENTATION PLAN.—The Administrator of the National Highway Traffic Safety Administration shall develop an implementation plan to support the completion of national-level tasks under the National NG911 Roadmap initiative.

(b) PEDESTRIAN AND CYCLISTS INFORMATION AND ENHANCED PERFORMANCE MANAGEMENT.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall implement the recommendations of the Comptroller General of the United States contained in the report entitled "Pedestrians and Cyclists: Better Information to States and Enhanced Performance Management Could Help DOT Improve Safety", numbered GAO–21–405, and dated May 20, 2021, by—

(A) carrying out measures to collect information relating to the range of countermeasures implemented by States;

(B) analyzing that information to help advance knowledge regarding the effectiveness of those countermeasures; and

(C) sharing with States any results.

(2) PERFORMANCE MANAGEMENT PRACTICES.—The Administrator of the National Highway Traffic Safety Administration shall use performance management practices to guide pedestrian and cyclist safety activities by—

(A) developing performance measures for the Administration and program offices responsible for implementing pedestrian and cyclist safety activities to demonstrate the means by which those activities contribute to safety goals; and

(B) using performance information to make any necessary changes to advance pedestrian and cyclist safety efforts.

Subtitle B—Vehicle Safety

SEC. 24201. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out chapter 301, and part C of subtitle VI, of title 49, United States Code—

(1) $200,294,333 for fiscal year 2022;

(2) $204,300,219 for fiscal year 2023;

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(3) $208,386,224 for fiscal year 2024;
(4) $212,553,948 for fiscal year 2025; and
(5) $216,805,027 for fiscal year 2026.

SEC. 24202. RECALL COMPLETION.

(a) REPORTS ON RECALL CAMPAIGNS.—Section 30118 of title 49, United States Code, is amended by adding at the end the following:

"(f) REPORTS ON NOTIFICATION CAMPAIGNS.—

"(1) IN GENERAL.—Each manufacturer that is conducting a campaign under subsection (b) or (c) or any other provision of law (including regulations) to notify manufacturers, distributors, owners, purchasers, or dealers of a defect or noncompliance shall submit to the Administrator of the National Highway Traffic Safety Administration—

"(A) by the applicable date described in section 573.7(d) of title 49, Code of Federal Regulations (or a successor regulation), a quarterly report describing the campaign for each of 8 consecutive quarters, beginning with the quarter in which the campaign was initiated; and

"(B) an annual report for each of the 3 years beginning after the date of completion of the last quarter for which a quarterly report is submitted under subparagraph (A).

"(2) REQUIREMENTS.—Except as otherwise provided in this subsection, each report under this subsection shall comply with the requirements of section 573.7 of title 49, Code of Federal Regulations (or a successor regulation).".

(b) RECALL COMPLETION RATES.—Section 30120 of title 49, United States Code, is amended by adding at the end the following:

"(k) RECALL COMPLETION RATES.—

"(1) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall publish an annual list of recall completion rates for each recall campaign for which 8 quarterly reports have been submitted under subsection (f) of section 30118 as of the date of publication of the list.

"(2) REQUIREMENTS.—The annual list under paragraph (1) shall include—

"(A) for each applicable campaign—

"(i) the total number of vehicles subject to recall; and

"(ii) the percentage of vehicles that have been remedied; and

"(B) for each manufacturer submitting an applicable quarterly report under section 30118(f)—

"(i) the total number of recalls issued by the manufacturer during the year covered by the list;

"(ii) the estimated number of vehicles of the manufacturer subject to recall during the year covered by the list; and

"(iii) the percentage of vehicles that have been remedied.".

SEC. 24203. RECALL ENGAGEMENT.

(a) RECALL REPAIR.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall—

(1) conduct a study to determine—

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(A) the reasons why vehicle owners do not have repairs performed for vehicles subject to open recalls; and

(B) whether engagement by third parties, including State and local governments, insurance companies, or other entities, could increase the rate at which vehicle owners have repairs performed for vehicles subject to open recalls; and

(2) submit to Congress a report describing the results of the study under paragraph (1), including any recommendations for increasing the rate of repair for vehicles subject to open recalls.

(b) RIDESHARING.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall—

(1) conduct a study to determine the number of passenger motor vehicles in each State that—

(A) are used by transportation network companies for for-hire purposes, such as ridesharing; and

(B) have 1 or more open recalls; and

(2) submit to Congress a report describing the results of the study under paragraph (1).

(c) NHTSA STUDY AND REPORT.—Not later than 3 years after the date of enactment of this Act, the Administrator of the National Highway Traffic Safety Administration shall—

(1) conduct a study to determine the ways in which vehicle recall notices could—

(A) more effectively reach vehicle owners;

(B) be made easier for all consumers to understand; and

(C) incentivize vehicle owners to complete the repairs described in the recall notices; and

(2) submit to Congress a report describing the results of the study under paragraph (1), including any recommendations for—

(A) increasing the rate of repair for vehicles subject to open recalls; or

(B) any regulatory or statutory legislative changes that would facilitate an increased rate of repair.

SEC. 24204. MOTOR VEHICLE SEAT BACK SAFETY STANDARDS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, subject to subsection (b), the Secretary shall issue an advanced notice of proposed rulemaking to update section 571.207 of title 49, Code of Federal Regulations.

(b) COMPLIANCE DATE.—If the Secretary determines that a final rule is appropriate consistent with the considerations described in section 30111(b) of title 49, United States Code, in issuing a final rule pursuant to subsection (a), the Secretary shall establish a date for required compliance with the final rule of not later than 2 motor vehicle model years after the model year during which the effective date of the final rule occurs.

SEC. 24205. AUTOMATIC SHUTOFF.

(a) DEFINITIONS.—In this section:

(1) KEY.—The term "key" has the meaning given the term in section 571.114 of title 49, Code of Federal Regulations (or a successor regulation).

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(2) MANUFACTURER.—The term "manufacturer" has the meaning given the term in section 30102(a) of title 49, United States Code.

(3) MOTOR VEHICLE.—

(A) IN GENERAL.—The term "motor vehicle" has the meaning given the term in section 30102(a) of title 49, United States Code.

(B) EXCLUSIONS.—The term "motor vehicle" does not include—

(i) a motorcycle or trailer (as those terms are defined in section 571.3 of title 49, Code of Federal Regulations (or a successor regulation));

(ii) any motor vehicle with a gross vehicle weight rating of more than 10,000 pounds;

(iii) a battery electric vehicle; or

(iv) a motor vehicle that requires extended periods with the engine in idle to operate in service mode or to operate equipment, such as an emergency vehicle (including a police vehicle, an ambulance, or a tow vehicle) and a commercial-use vehicle (including a refrigeration vehicle).

(b) AUTOMATIC SHUTOFF SYSTEMS FOR MOTOR VEHICLES.—

(1) FINAL RULE.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall issue a final rule amending section 571.114 of title 49, Code of Federal Regulations, to require manufacturers to install in each motor vehicle that is equipped with a keyless ignition device and an internal combustion engine a device or system to automatically shutoff the motor vehicle after the motor vehicle has idled for the period described in subparagraph (B).

(B) DESCRIPTION OF PERIOD.—

(i) IN GENERAL.—The period referred to in subparagraph (A) is the period designated by the Secretary as necessary to prevent, to the maximum extent practicable, carbon monoxide poisoning.

(ii) DIFFERENT PERIODS.—The Secretary may designate different periods under clause (i) for different types of motor vehicles, depending on the rate at which the motor vehicle emits carbon monoxide, if—

(I) the Secretary determines a different period is necessary for a type of motor vehicle for purposes of section 30111 of title 49, United States Code; and

(II) requiring a different period for a type of motor vehicle is consistent with the prevention of carbon monoxide poisoning.

(2) DEADLINE.—Unless the Secretary finds good cause to phase-in or delay implementation, the rule issued pursuant to paragraph (1) shall take effect on September 1 of the first calendar year beginning after the date on which the Secretary issues the rule.

(c) PREVENTING MOTOR VEHICLES FROM ROLLING AWAY.—

(1) REQUIREMENT.—The Secretary shall conduct a study of the regulations contained in part 571 of title 49, Code of Federal Regulations, to evaluate the potential consequences

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and benefits of the installation by manufacturers of technology to prevent movement of motor vehicles equipped with keyless ignition devices and automatic transmissions when—

(A) the transmission of the motor vehicle is not in the park setting;

(B) the motor vehicle does not exceed the speed determined by the Secretary under paragraph (2);

(C) the seat belt of the operator of the motor vehicle is unbuckled;

(D) the service brake of the motor vehicle is not engaged; and

(E) the door for the operator of the motor vehicle is open.

(2) REVIEW AND REPORT.—The Secretary shall—

(A) provide a recommended maximum speed at which a motor vehicle may be safely locked in place under the conditions described in subparagraphs (A), (C), (D), and (E) of paragraph (1) to prevent vehicle rollaways; and

(B) not later than 1 year after the date of completion of the study under paragraph (1), submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report—

(i) describing the findings of the study; and

(ii) providing additional recommendations, if any.

SEC. 24206. PETITIONS BY INTERESTED PERSONS FOR STANDARDS AND ENFORCEMENT.

Section 30162 of title 49, United States Code, is amended—

(1) in subsection (b), by striking "The petition" and inserting "A petition under this section";

(2) in subsection (c), by striking "the petition" and inserting "a petition under this section"; and

(3) in subsection (d)—

(A) in the third sentence, by striking "If a petition" and inserting the following:

"(3) DENIAL.—If a petition under this section";

(B) in the second sentence , by striking "If a petition is granted" and inserting the following:

"(2) APPROVAL.—If a petition under this section is approved"; and

(C) in the first sentence, by striking "The Secretary shall grant or deny a petition" and inserting the following:

"(1) IN GENERAL.—The Secretary shall determine whether to approve or deny a petition under this section by".

SEC. 24207. CHILD SAFETY SEAT ACCESSIBILITY STUDY.

(a) IN GENERAL.—The Secretary, in coordination with other relevant Federal departments and agencies, including the Secretary of Agriculture, the Secretary of Education, and the Secretary of Health and Human Services, shall conduct a study to review the status of motor vehicle child safety seat accessibility for low-income families and underserved populations.

(b) ADDRESSING NEEDS.—In conducting the study under subsection (a), the Secretary shall—

(1) examine the impact of Federal funding provided under section 405 of title 23, United States Code; and

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(2) develop a plan for addressing any needs identified in the study, including by working with social service providers.

SEC. 24208. CRASH AVOIDANCE TECHNOLOGY.

(a) IN GENERAL.—Subchapter II of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

"§ 30129. Crash avoidance technology

"(a) IN GENERAL.—The Secretary of Transportation shall promulgate a rule—

"(1) to establish minimum performance standards with respect to crash avoidance technology; and

"(2) to require that all passenger motor vehicles manufactured for sale in the United States on or after the compliance date described in subsection (b) shall be equipped with—

"(A) a forward collision warning and automatic emergency braking system that—

"(i) alerts the driver if—

"(I) the distance to a vehicle ahead or an object in the path of travel ahead is closing too quickly; and

"(II) a collision is imminent; and

"(ii) automatically applies the brakes if the driver fails to do so; and

"(B) a lane departure warning and lane-keeping assist system that—

"(i) warns the driver to maintain the lane of travel; and

"(ii) corrects the course of travel if the driver fails to do so.

"(b) COMPLIANCE DATE.—The Secretary of Transportation shall determine the appropriate effective date, and any phasing-in of requirements, of the final rule promulgated pursuant to subsection (a).".

(b) CLERICAL AMENDMENT.—The analysis for subchapter II of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

"30129. Crash avoidance technology.".

SEC. 24209. REDUCTION OF DRIVER DISTRACTION.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary shall conduct research regarding the installation and use on motor vehicles of driver monitoring systems to minimize or eliminate—

(1) driver distraction;

(2) driver disengagement;

(3) automation complacency by drivers; and

(4) foreseeable misuse of advanced driver-assist systems.

(b) REPORT.—Not later than 180 days after the date of completion of the research under subsection (a), the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a detailed report describing the findings of the research.

(c) RULEMAKING.—

(1) IN GENERAL.—If, based on the research completed under subsection (a), the Secretary determines that—

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(A) 1 or more rulemakings are necessary to ensure safety, in accordance with the section 30111 of title 49, United States Code, the Secretary shall initiate the rulemakings by not later than 2 years after the date of submission of the report under subsection (b); and

(B) an additional rulemaking is not necessary, or an additional rulemaking cannot meet the applicable requirements and considerations described in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the reasons for not prescribing additional Federal motor vehicle safety standards regarding the research conducted under subsection (a).

(2) PRIVACY.—A rule issued pursuant to paragraph (1) shall incorporate appropriate privacy and data security safeguards, as determined by the Secretary.

SEC. 24210. RULEMAKING REPORT.

(a) DEFINITION OF COVERED RULEMAKING.—In this section, the term "covered rulemaking" means a regulation or rulemaking that—

(1) has not been finalized by the date on which the relevant notification is submitted under subsection (b); and

(2) relates to—

(A) section 30120A of title 49, United States Code;

(B) section 30166(o) of title 49, United States Code;

(C) section 30172 of title 49, United States Code;

(D) section 32302(c) of title 49, United States Code;

(E) a defect reporting requirement under section 32302(d) of title 49, United States Code;

(F) subsections (b) and (c) of section 32304A of title 49, United States Code;

(G) the tire pressure monitoring standards required under section 24115 of the FAST Act (49 U.S.C. 30123 note; Public Law 114–94);

(H) the amendment made by section 24402 of the FAST Act (129 Stat. 1720; Public Law 114–94) to section 30120(g)(1) of title 49, United States Code;

(I) the records retention rule required under section 24403 of the FAST Act (49 U.S.C. 30117 note; Public Law 114–94);

(J) the amendments made by section 24405 of the FAST Act (Public Law 114–94; 129 Stat. 1721) to section 30114 of title 49, United States Code;

(K) a defect and noncompliance notification required under—

(i) section 24104 of the FAST Act (49 U.S.C. 30119 note; Public Law 114–94); or

(ii) section 31301 of MAP–21 (49 U.S.C. 30166 note; Public Law 112–141);

(L) a side impact or frontal impact test procedure for child restraint systems under section 31501 of MAP–21 (49 U.S.C. 30127 note; Public Law 112–141);

(M) an upgrade to child restraint anchorage system usability requirements required under section 31502 of MAP–21 (49 U.S.C. 30127 note; Public Law 112–141);

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(N) the rear seat belt reminder system required under section 31503 of MAP–21 (49 U.S.C. 30127 note; Public Law 112–141);

(O) a motorcoach rulemaking required under section 32703 of MAP–21 (49 U.S.C. 31136 note; Public Law 112–141); or

(P) any rulemaking required under this Act.

(b) NOTIFICATION.—Not later than 180 days after the date of enactment of this Act, and not less frequently than biannually thereafter until the applicable covered rulemaking is complete, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a written notification that includes, with respect to each covered rulemaking—

(1) for a covered rulemaking with a statutory deadline for completion—

(A) an explanation of why the deadline was not met; and

(B) an expected date of completion of the covered rulemaking; and

(2) for a covered rulemaking without a statutory deadline for completion, an expected date of completion of the covered rulemaking.

(c) ADDITIONAL CONTENTS.—A notification under subsection (b) shall include, for each applicable covered rulemaking—

(1) an updated timeline;

(2) a list of factors causing delays in the completion of the covered rulemaking; and

(3) any other details associated with the status of the covered rulemaking.

SEC. 24211. GLOBAL HARMONIZATION.

The Secretary shall cooperate, to the maximum extent practicable, with foreign governments, nongovernmental stakeholder groups, the motor vehicle industry, and consumer groups with respect to global harmonization of vehicle regulations as a means for improving motor vehicle safety.

SEC. 24212. HEADLAMPS.

(a) DEFINITIONS.—In this section:

(1) ADAPTIVE DRIVING BEAM HEADLAMP.—The term "adaptive driving beam headlamp" means a headlamp (as defined in Standard 108) that meets the performance requirements specified in SAE International Standard J3069, published on June 30, 2016.

(2) STANDARD 108.—The term "Standard 108" means Federal Motor Vehicle Safety Standard Number 108, contained in section 571.108 of title 49, Code of Federal Regulations (as in effect on the date of enactment of this Act).

(b) RULEMAKING.—Not later than 2 years after the date of enactment of this Act, the Secretary shall issue a final rule amending Standard 108—

(1) to include performance-based standards for vehicle headlamp systems—

(A) to ensure that headlights are correctly aimed on the road; and

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(B) requiring those systems to be tested on-vehicle to account for headlight height and lighting performance; and

(2) to allow for the use on vehicles of adaptive driving beam headlamp systems.

(c) PERIODIC REVIEW.—Nothing in this section precludes the Secretary from—

(1) reviewing Standard 108, as amended pursuant to subsection (b); and

(2) revising Standard 108 to reflect an updated version of SAE International Standard J3069, as the Secretary determines to be—

(A) appropriate; and

(B) in accordance with section 30111 of title 49, United States Code.

SEC. 24213. NEW CAR ASSESSMENT PROGRAM.

(a) UPDATES.—Not later than 1 year after the date of enactment of this Act, the Secretary shall finalize the proceeding for which comments were requested in the notice entitled "New Car Assessment Program" (80 Fed. Reg. 78522 (December 16, 2015)) to update the passenger motor vehicle information required under section 32302(a) of title 49, United States Code.

(b) INFORMATION PROGRAM.—Section 32302 of title 49, United States Code, is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by inserting "(referred to in this section as the 'Secretary')" after "of Transportation"; and

(2) by adding at the end the following:

"(e) ADVANCED CRASH-AVOIDANCE TECHNOLOGIES.—

"(1) NOTICE.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall publish a notice, for purposes of public review and comment, to establish, distinct from crashworthiness information, a means for providing to consumers information relating to advanced crash-avoidance technologies, in accordance with subsection (a).

"(2) INCLUSIONS.—The notice under paragraph (1) shall include—

"(A) an appropriate methodology for—

"(i) determining which advanced crash-avoidance technologies shall be included in the information;

"(ii) developing performance test criteria for use by manufacturers in evaluating advanced crash-avoidance technologies;

"(iii) determining a distinct rating involving each advanced crash-avoidance technology to be included; and

"(iv) updating overall vehicle ratings to incorporate advanced crash-avoidance technology ratings; and

"(B) such other information and analyses as the Secretary determines to be necessary to implement the rating of advanced crash-avoidance technologies.

"(3) REPORT.—Not later than 18 months after the date of enactment of this subsection, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that describes a plan

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for implementing an advanced crash-avoidance technology information and rating system, in accordance with subsection (a).

"(f) VULNERABLE ROAD USER SAFETY.—

"(1) NOTICE.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall publish a notice, for purposes of public review and comment, to establish a means for providing to consumers information relating to pedestrian, bicyclist, or other vulnerable road user safety technologies, in accordance with subsection (a).

"(2) INCLUSIONS.—The notice under paragraph (1) shall include—

"(A) an appropriate methodology for—

"(i) determining which technologies shall be included in the information;

"(ii) developing performance test criteria for use by manufacturers in evaluating the extent to which automated pedestrian safety systems in light vehicles attempt to prevent and mitigate, to the best extent possible, pedestrian injury;

"(iii) determining a distinct rating involving each technology to be included; and

"(iv) updating overall vehicle ratings to incorporate vulnerable road user safety technology ratings; and

"(B) such other information and analyses as the Secretary determines to be necessary to implement the rating of vulnerable road user safety technologies.

"(3) REPORT.—Not later than 18 months after the date of enactment of this subsection, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that describes a plan for implementing an information and rating system for vulnerable road user safety technologies, in accordance with subsection (a).".

(c) ROADMAP.—

(1) IN GENERAL.—Chapter 323 of title 49, United States Code, is amended by adding at the end the following:

"§ 32310. New Car Assessment Program roadmap

"(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this section, and not less frequently than once every 4 years thereafter, the Secretary of Transportation (referred to in this section as the 'Secretary') shall establish a roadmap for the implementation of the New Car Assessment Program of the National Highway Traffic Safety Administration.

"(b) REQUIREMENTS.—A roadmap under subsection (a) shall—

"(1) cover a term of 10 years, consisting of—

"(A) a mid-term component covering the initial 5 years of the term; and

"(B) a long-term component covering the final 5 years of the term; and

"(2) be in accordance with—

"(A) section 306 of title 5;

"(B) section 1115 of title 31;

"(C) section 24401 of the FAST Act (49 U.S.C. 105 note; Public Law 114–94); and

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"(D) any other relevant plans of the National Highway Traffic Safety Administration.

"(c) CONTENTS.—A roadmap under subsection (a) shall include—

"(1) a plan for any changes to the New Car Assessment Program of the National Highway Traffic Safety Administration, including—

"(A) descriptions of actions to be carried out to update the passenger motor vehicle information developed under section 32302(a), including the development of test procedures, test devices, test fixtures, and safety performance metrics, which shall, as applicable, incorporate—

"(i) objective criteria for evaluating safety technologies; and

"(ii) reasonable time periods for compliance with new or updated tests;

"(B) key milestones, including the anticipated start of an action, completion of an action, and effective date of an update; and

"(C) descriptions of the means by which an update will improve the passenger motor vehicle information developed under section 32302(a);

"(2) an identification and prioritization of safety opportunities and technologies—

"(A) with respect to the mid-term component of the roadmap under subsection (b)(1)(A)—

"(i) that are practicable; and

"(ii) for which objective rating tests, evaluation criteria, and other consumer data exist for a market-based, consumer information approach; and

"(B) with respect to the long-term component of the roadmap under subsection (b)(1)(B), exist or are in development;

"(3) an identification of—

"(A) any safety opportunity or technology that—

"(i) is identified through the activities carried out pursuant to subsection (d) or (e); and

"(ii) is not included in the roadmap under paragraph (2);

"(B) the reasons why such a safety opportunity or technology is not included in the roadmap; and

"(C) any developments or information that would be necessary for the Secretary to consider including such a safety opportunity or technology in a future roadmap; and

"(4) consideration of the benefits of consistency with other rating systems used—

"(A) within the United States; and

"(B) internationally.

"(d) CONSIDERATIONS.—Before finalizing a roadmap under this section, the Secretary shall—

"(1) make the roadmap available for public comment;

"(2) review any public comments received under paragraph (1); and

"(3) incorporate in the roadmap under this section those comments, as the Secretary determines to be appropriate.

"(e) STAKEHOLDER ENGAGEMENT.—Not less frequently than annually, the Secretary shall engage stakeholders that represent a diversity of technical backgrounds and viewpoints—

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"(1) to identify—

"(A) safety opportunities or technologies in development that could be included in future roadmaps; and

"(B) opportunities to benefit from collaboration or harmonization with third-party safety rating programs;

"(2) to assist with long-term planning;

"(3) to provide an interim update of the status and development of the following roadmap to be established under subsection (a); and

"(4) to collect feedback or other information that the Secretary determines to be relevant to enhancing the New Car Assessment Program of the National Highway Traffic Safety Administration.".

(2) CLERICAL AMENDMENT.—The analysis for chapter 323 of title 49, United States Code, is amended by adding at the end the following:

"32310. New Car Assessment Program roadmap.".

SEC. 24214. HOOD AND BUMPER STANDARDS.

(a) NOTICE.—Not later than 2 years after the date of enactment of this Act, the Secretary shall issue a notice, for purposes of public review and comment, regarding potential updates to hood and bumper standards for motor vehicles (as defined in section 30102(a) of title 49, United States Code).

(b) INCLUSIONS.—The notice under subsection (a) shall include information relating to—

(1) the incorporation or consideration of advanced crash-avoidance technology in existing motor vehicle standards;

(2) the incorporation or consideration of standards or technologies to reduce the number of injuries and fatalities suffered by pedestrians, bicyclists, or other vulnerable road users;

(3) the development of performance test criteria for use by manufacturers in evaluating advanced crash-avoidance technology, including technology relating to vulnerable road user safety;

(4) potential harmonization with global standards, including United Nations Economic Commission for Europe Regulation Number 42; and

(5) such other information and analyses as the Secretary determines to be necessary.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that describes—

(1) the current status of hood and bumper standards;

(2) relevant advanced crash-avoidance technology;

(3) actions needed to be carried out to develop performance test criteria; and

(4) if applicable, a plan for incorporating advanced crash-avoidance technology, including technology relating to vulnerable road user safety, in existing standards.

SEC. 24215. EMERGENCY MEDICAL SERVICES AND 9–1–1.

Section 158(a) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942(a)) is amended by striking paragraph (4).

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SEC. 24216. EARLY WARNING REPORTING.

(a) IN GENERAL.—Section 30166(m)(3) of title 49, United States Code, is amended by adding at the end the following:

"(D) SETTLEMENTS.—Notwithstanding any order entered in a civil action restricting the disclosure of information, a manufacturer of a motor vehicle or motor vehicle equipment shall comply with the requirements of this subsection and any regulations promulgated pursuant to this subsection.".

(b) STUDY AND REPORT.—Not later than 18 months after the date of enactment of this Act, the Administrator of the National Highway Traffic Safety Administration shall—

(1) conduct a study—

(A) to evaluate the early warning reporting data submitted under section 30166(m) of title 49, United States Code (including regulations); and

(B) to identify improvements, if any, that would enhance the use by the National Highway Traffic Administration of early warning reporting data to enhance safety; and

(2) submit to the Committee on the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the results of the study under paragraph (1), including any recommendations for regulatory or legislative action.

SEC. 24217. IMPROVED VEHICLE SAFETY DATABASES.

Not later than 3 years after the date of enactment of this Act, after consultation with frequent users of publicly available databases, the Secretary shall improve public accessibility to information relating to the publicly accessible vehicle safety databases of the National Highway Traffic Safety Administration by revising the publicly accessible vehicle safety databases—

(1) to improve organization and functionality, including design features such as drop-down menus;

(2) to allow data from applicable publicly accessible vehicle safety databases to be searched, sorted, aggregated, and downloaded in a manner that—

(A) is consistent with the public interest; and

(B) facilitates easy use by consumers;

(3) to provide greater consistency in presentation of vehicle safety issues;

(4) to improve searchability regarding specific vehicles and issues, which may include the standardization of commonly used search terms; and

(5) to ensure nonconfidential documents and materials relating to information created or obtained by the National Highway Traffic Safety Administration are made publicly available in a manner that is—

(A) timely; and

(B) searchable in databases by any element that the Secretary determines to be in the public interest.

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SEC. 24218. NATIONAL DRIVER REGISTER ADVISORY COMMITTEE REPEAL.

(a) IN GENERAL.—Section 30306 of title 49, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The analysis for chapter 303 of title 49, United States Code, is amended by striking the item relating to section 30306.

SEC. 24219. RESEARCH ON CONNECTED VEHICLE TECHNOLOGY.

The Administrator of the National Highway Traffic Safety Administration, in collaboration with the head of the Intelligent Transportation Systems Joint Program Office and the Administrator of the Federal Highway Administration, shall—

(1) not later than 180 days after the date of enactment of this Act, expand vehicle-to-pedestrian research efforts focused on incorporating bicyclists and other vulnerable road users into the safe deployment of connected vehicle systems; and

(2) not later than 2 years after the date of enactment of this Act, submit to Congress and make publicly available a report describing the findings of the research efforts described in paragraph (1), including an analysis of the extent to which applications supporting vulnerable road users can be accommodated within existing spectrum allocations for connected vehicle systems.

SEC. 24220. ADVANCED IMPAIRED DRIVING TECHNOLOGY.

(a) FINDINGS.—Congress finds that—

(1) alcohol-impaired driving fatalities represent approximately ⅓ of all highway fatalities in the United States each year;

(2) in 2019, there were 10,142 alcohol-impaired driving fatalities in the United States involving drivers with a blood alcohol concentration level of .08 or higher, and 68 percent of the crashes that resulted in those fatalities involved a driver with a blood alcohol concentration level of .15 or higher;

(3) the estimated economic cost for alcohol-impaired driving in 2010 was $44,000,000,000;

(4) according to the Insurance Institute for Highway Safety, advanced drunk and impaired driving prevention technology can prevent more than 9,400 alcohol-impaired driving fatalities annually; and

(5) to ensure the prevention of alcohol-impaired driving fatalities, advanced drunk and impaired driving prevention technology must be standard equipment in all new passenger motor vehicles.

(b) DEFINITIONS.—In this section:

(1) ADVANCED DRUNK AND IMPAIRED DRIVING PREVENTION TECHNOLOGY.—The term "advanced drunk and impaired driving prevention technology" means a system that—

(A) can—

(i) passively monitor the performance of a driver of a motor vehicle to accurately identify whether that driver may be impaired; and

(ii) prevent or limit motor vehicle operation if an impairment is detected;

(B) can—

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(i) passively and accurately detect whether the blood alcohol concentration of a driver of a motor vehicle is equal to or greater than the blood alcohol concentration described in section 163(a) of title 23, United States Code; and

(ii) prevent or limit motor vehicle operation if a blood alcohol concentration above the legal limit is detected; or

(C) is a combination of systems described in subparagraphs (A) and (B).

(2) NEW.—The term "new", with respect to a passenger motor vehicle, means that the passenger motor vehicle—

(A) is a new vehicle (as defined in section 37.3 of title 49, Code of Federal Regulations (or a successor regulation)); and

(B) has not been purchased for purposes other than resale.

(3) PASSENGER MOTOR VEHICLE.—The term "passenger motor vehicle" has the meaning given the term in section 32101 of title 49, United States Code.

(4) SECRETARY.—The term "Secretary" means the Secretary of Transportation, acting through the Administrator of the National Highway Traffic Safety Administration.

(c) ADVANCED DRUNK AND IMPAIRED DRIVING PREVENTION TECHNOLOGY SAFETY STANDARD.—Subject to subsection (e) and not later than 3 years after the date of enactment of this Act, the Secretary shall issue a final rule prescribing a Federal motor vehicle safety standard under section 30111 of title 49, United States Code, that requires passenger motor vehicles manufactured after the effective date of that standard to be equipped with advanced drunk and impaired driving prevention technology.

(d) REQUIREMENT.—To allow sufficient time for manufacturer compliance, the compliance date of the rule issued under subsection (c) shall be not earlier than 2 years and not more than 3 years after the date on which that rule is issued.

(e) TIMING.—If the Secretary determines that the Federal motor vehicle safety standard required under subsection (c) cannot meet the requirements and considerations described in subsections (a) and (b) of section 30111 of title 49, United States Code, by the applicable date, the Secretary—

(1) may extend the time period to such date as the Secretary determines to be necessary, but not later than the date that is 3 years after the date described in subsection (c);

(2) shall, not later than the date described in subsection (c) and not less frequently than annually thereafter until the date on which the rule under that subsection is issued, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing, as of the date of submission of the report—

(A) the reasons for not prescribing a Federal motor vehicle safety standard under section 30111 of title 49, United States Code, that requires advanced drunk and impaired driving prevention technology in all new passenger motor vehicles;

(B) the deployment of advanced drunk and impaired driving prevention technology in vehicles;

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(C) any information relating to the ability of vehicle manufacturers to include advanced drunk and impaired driving prevention technology in new passenger motor vehicles; and

(D) an anticipated timeline for prescribing the Federal motor vehicle safety standard described in subsection (c); and

(3) if the Federal motor vehicle safety standard required by subsection (c) has not been finalized by the date that is 10 years after the date of enactment of this Act, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representative a report describing—

(A) the reasons why the Federal motor vehicle safety standard has not been finalized;

(B) the barriers to finalizing the Federal motor vehicle safety standard; and

(C) recommendations to Congress to facilitate the Federal motor vehicle safety standard.

SEC. 24221. GAO REPORT ON CRASH DUMMIES.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that—

(1) examines—

(A) the processes used by the National Highway Traffic Safety Administration (referred to in this section as the "Administration") for studying and deploying crash test dummies;

(B)(i) the types of crash test dummies used by the Administration as of the date of enactment of this Act;

(ii) the seating positions in which those crash test dummies are tested; and

(iii) whether the seating position affects disparities in motor vehicle safety outcomes based on demographic characteristics, including sex, and, if so, how the seating position affects those disparities;

(C) the biofidelic crash test dummies that are available in the global and domestic marketplace that reflect the physical and demographic characteristics of the driving public in the United States, including—

(i) females;

(ii) the elderly;

(iii) young adults;

(iv) children; and

(v) individuals of differing body weights;

(D) how the Administration determines whether to study and deploy new biofidelic crash test dummies, including the biofidelic crash test dummies examined under subparagraph (C), and the timelines by which the Administration conducts the work of making those determinations and studying and deploying new biofidelic crash test dummies;

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(E) challenges the Administration faces in studying and deploying new crash test dummies; and

(F) how the practices of the Administration with respect to crash test dummies compare to other programs that test vehicles and report results to the public, including the European New Car Assessment Programme;

(2) evaluates potential improvements to the processes described in paragraph (1) that could reduce disparities in motor vehicle safety outcomes based on demographic characteristics, including sex;

(3) analyzes the potential use of computer simulation techniques, as a supplement to physical crash tests, to conduct virtual simulations of vehicle crash tests in order to evaluate predicted motor vehicle safety outcomes based on the different physical and demographic characteristics of motor vehicle occupants; and

(4) includes, as applicable, any assessments or recommendations relating to crash test dummies that are relevant to reducing disparities in motor vehicle safety outcomes based on demographic characteristics, including sex.

(b) INTERIM REPORT FROM THE ADMINISTRATION.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Administration shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that—

(1) identifies—

(A) the types of crash test dummies used by the Administration as of the date of enactment of this Act with respect to—

(i) the New Car Assessment Program of the Administration; and

(ii) testing relating to Federal Motor Vehicle Safety Standards;

(B) how each type of crash test dummy identified under subparagraph (A) is tested with respect to seating position; and

(C) any crash test dummies that the Administration is actively evaluating for future use—

(i) in the New Car Assessment Program of the Administration; or

(ii) for testing relating to Federal Motor Vehicle Safety Standards;

(2) explains—

(A) the plans of the Administration, including the expected timelines, for putting any crash test dummies identified under paragraph (1)(C) to use as described in that paragraph;

(B) any challenges to putting those crash test dummies to use; and

(C) the potential use of computer simulation techniques, as a supplement to physical crash tests, to conduct virtual simulations of vehicle crash tests in order to evaluate predicted motor vehicle safety outcomes based on the different physical and demographic characteristics of motor vehicle occupants; and

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(3) provides policy recommendations for reducing disparities in motor vehicle safety testing and outcomes based on demographic characteristics, including sex.

SEC. 24222. CHILD SAFETY.

(a) AMENDMENT.—

(1) IN GENERAL.—Chapter 323 of title 49, United States Code, is amended by adding after section 32304A the following:

"§ 32304B. Child safety

"(a) DEFINITIONS.—In this section:

"(1) PASSENGER MOTOR VEHICLE.—The term 'passenger motor vehicle' has the meaning given that term in section 32101.

"(2) REAR-DESIGNATED SEATING POSITION.—The term 'rear-designated seating position' means designated seating positions that are rearward of the front seat.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(b) RULEMAKING.—Not later than 2 years after the date of enactment of this section, the Secretary shall 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.

"(c) MEANS.—The alert required under subsection (b)—

"(1) shall include a distinct auditory and visual alert, which may be combined with a haptic alert; and

"(2) shall be activated when the vehicle motor is deactivated by the operator.

"(d) PHASE-IN.—The rule issued pursuant to subsection (b) shall require full compliance with the rule beginning on September 1st of the first calendar year that begins 2 years after the date on which the final rule is issued.".

(2) CLERICAL AMENDMENT.—The analysis for chapter 323 of title 49, United States Code, is amended by inserting after the item relating to section 32304A the following:

"32304B. Child safety.".

(b) AWARENESS OF CHILDREN IN MOTOR VEHICLES.—Section 402 of title 23, United States Code (as amended by section 24102(a)(9)), is amended by adding at the end the following:

"(o) UNATTENDED PASSENGERS.—

"(1) IN GENERAL.—Each State shall use a portion of the amounts received by the State under this section to carry out a program to educate the public regarding the risks of leaving a child or unattended passenger in a vehicle after the vehicle motor is deactivated by the operator.

"(2) PROGRAM PLACEMENT.—Nothing in this subsection requires a State to carry out a program described in paragraph (1) through the State transportation or highway safety office.".

(c) STUDY AND REPORT.—

(1) STUDY.—

(A) IN GENERAL.—The Secretary shall conduct a study on—

(i) the potential retrofitting of existing passenger motor vehicles with 1 or more technologies that may address the problem of children left in rear-designated

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seating positions of motor vehicles after deactivation of the motor vehicles by an operator; and

(ii) the potential benefits and burdens, logistical or economic, associated with widespread use of those technologies.

(B) ELEMENTS.—In carrying out the study under subparagraph (A), the Secretary shall—

(i) survey and evaluate a variety of methods used by current and emerging aftermarket technologies or products to reduce the risk of children being left in rear-designated seating positions after deactivation of a motor vehicle; and

(ii) provide recommendations—

(I) for manufacturers of the technologies and products described in clause (i) to carry out a functional safety performance evaluation to ensure that the technologies and products perform as designed by the manufacturer under a variety of real-world conditions; and

(II) for consumers on methods to select an appropriate technology or product described in clause (i) in order to retrofit existing vehicles.

(2) REPORT BY SECRETARY.—Not later than 180 days after the date on which the Secretary issues the final rule required by section 32304B(b) of title 49, United States Code (as added by subsection (a)(1)), the Secretary shall submit a report describing the results of the study carried out under paragraph (1) to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

TITLE V—RESEARCH AND INNOVATION

SEC. 25001. INTELLIGENT TRANSPORTATION SYSTEMS PROGRAM ADVISORY COMMITTEE.

Section 515(h) of title 23, United States Code, is amended—

(1) in paragraph (1), by inserting "(referred to in this subsection as the 'Advisory Committee')" after "an Advisory Committee";

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking "20 members" and inserting "25 members";

(B) in subparagraph (O) (as redesignated by section 13008(a)(2))—

(i) by striking "utilities,"; and

(ii) by striking the period at the end and inserting a semicolon;

(C) by redesignating subparagraphs (F), (G), (H), (I), (J), (K), (L), (M), (N), and (O) (as added or redesignated by section 13008(a)) as subparagraphs (H), (J), (K), (L), (M), (N), (O), (S), (T), and (U), respectively;

(D) by inserting after subparagraph (E) (as redesignated by section 13008(a)(2)) the following:

"(F) a representative of a national transit association;

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"(G) a representative of a national, State, or local transportation agency or association;";

(E) by inserting after subparagraph (H) (as redesignated by subparagraph (C)) the following:

"(I) a private sector developer of intelligent transportation system technologies, which may include emerging vehicle technologies;";

(F) by inserting after subparagraph (O) (as so redesignated) the following:

"(P) a representative of a labor organization;

"(Q) a representative of a mobility-providing entity;

"(R) an expert in traffic management;"; and

(G) by adding at the end the following:

"(V) an expert in cybersecurity; and

"(W) an automobile manufacturer.";

(3) in paragraph (3)—

(A) in subparagraph (A), by striking "section 508" and inserting "section 6503 of title 49"; and

(B) in subparagraph (B)—

(i) in the matter preceding clause (i), by inserting "programs and" before "research"; and

(ii) in clause (iii), by striking "research and" and inserting "programs, research, and";

(4) by redesignating paragraphs (3) through (5) as paragraphs (5) through (7); and

(5) by inserting after paragraph (2) the following:

"(3) TERM.—

"(A) IN GENERAL.—The term of a member of the Advisory Committee shall be 3 years.

"(B) RENEWAL.—On expiration of the term of a member of the Advisory Committee, the member—

"(i) may be reappointed; or

"(ii) if the member is not reappointed under clause (i), may serve until a new member is appointed.

"(4) MEETINGS.—The Advisory Committee—

"(A) shall convene not less frequently than twice each year; and

"(B) may convene with the use of remote video conference technology.".

SEC. 25002. SMART COMMUNITY RESOURCE CENTER.

(a) DEFINITIONS.—In this section:

(1) RESOURCE CENTER.—The term "resource center" means the Smart Community Resource Center established under subsection (b).

(2) SMART COMMUNITY.—The term "smart community" means a community that uses innovative technologies, data, analytics, and other means to improve the community and address local challenges.

(b) ESTABLISHMENT.—The Secretary shall work with the modal administrations of the Department and with such other Federal agencies and departments as the Secretary determines to be appropriate to make available to the public on an Internet website a resource center, to be known as the "Smart Community Resource Center", that includes a compilation of resources or links to resources for States and local communities to use in developing and implementing—

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(1) intelligent transportation system programs; or
(2) smart community transportation programs.

(c) INCLUSIONS.—The resource center shall include links to—

(1) existing programs and resources for intelligent transportation system or smart community transportation programs, including technical assistance, education, training, funding, and examples of intelligent transportation systems or smart community transportation programs implemented by States and local communities, available from—

(A) the Department;
(B) other Federal agencies; and
(C) non-Federal sources;

(2) existing reports or databases with the results of intelligent transportation system or smart community transportation programs;

(3) any best practices developed or lessons learned from intelligent transportation system or smart community transportation programs; and

(4) such other resources as the Secretary determines to be appropriate.

(d) DEADLINE.—The Secretary shall establish the resource center by the date that is 1 year after the date of enactment of this Act.

(e) UPDATES.—The Secretary shall ensure that the resource center is updated on a regular basis.

SEC. 25003. FEDERAL SUPPORT FOR LOCAL DECISIONMAKING.

(a) LOCAL OUTREACH.—To determine the data analysis tools needed to assist local communities in making infrastructure decisions, the Director of the Bureau of Transportation Statistics shall perform outreach to planning and infrastructure decision-making officials in units of local government and other units of government, including a geographically diverse group of individuals from—

(1) States;
(2) political subdivisions of States;
(3) cities;
(4) metropolitan planning organizations;
(5) regional transportation planning organizations; and
(6) federally recognized Indian Tribes.

(b) WORK PLAN.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, based on the outreach performed under subsection (a), the Director of the Bureau of Transportation Statistics shall submit to the Secretary a work plan for reviewing and updating existing data analysis tools and developing any additional data analysis tools needed to assist local communities with making infrastructure investment decisions.

(2) CONTENTS.—Based on the needs identified pursuant to the outreach performed under subsection (a), the work plan submitted under paragraph (1) shall include—

(A) a description of the data analysis tools identified that would benefit infrastructure decision-making by local governments and address the goals described in subsection (c);

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(B) a review of the datasets that local governments need to effectively use the data analysis tools described in subparagraph (A);

(C) an identification of existing or proposed data analysis tools that use publicly available data;

(D) the estimated cost of obtaining each dataset described in subparagraph (B);

(E) the estimated cost to develop the data analysis tools described in subparagraph (A);

(F) a prioritization for the development of data analysis tools described in subparagraph (A); and

(G) a determination as to whether it would be appropriate for the Federal Government to develop the data analysis tools described in subparagraph (A).

(c) GOALS.—

(1) IN GENERAL.—A data analysis tool created pursuant to the work plan submitted under subsection (b)(1) shall be developed to help inform local communities in making infrastructure investments.

(2) SPECIFIC ISSUES.—A data analysis tool created pursuant to the work plan submitted under subsection (b)(1) shall be intended to help units of local government and other units of government address 1 or more of the following:

(A) Improving maintenance of existing assets.

(B) Rebuilding infrastructure to a state of good repair.

(C) Creating economic development through infrastructure development.

(D) Establishing freight plans and infrastructure that connects the community to supply chains.

(E) Increasing options for communities that lack access to affordable transportation to improve access to jobs, affordable housing, schools, medical services, foods and other essential community services.

(F) Reducing congestion.

(G) Improving community resilience to extreme weather events.

(H) Any other subject, as the Director determines to be necessary.

(d) IMPLEMENTATION.—Subject to the availability of appropriations, the Secretary shall develop data analysis tools and purchase datasets as prioritized in the work plan.

(e) COORDINATION.—The Director of the Bureau of Transportation Statistics may utilize existing working groups or advisory committees to perform the local outreach required under subsection (a).

SEC. 25004. BUREAU OF TRANSPORTATION STATISTICS.

(a) FUNDING.—In addition to amounts made available from the Highway Trust Fund, there is authorized to be appropriated to the Secretary for use by the Bureau of Transportation Statistics for data collection and analysis activities $10,000,000 for each of fiscal years 2022 through 2026.

(b) AMENDMENT.—Section 6302(b)(3)(B)(vi) of title 49, United States Code, is amended—

(1) by striking subclause (V);

(2) by redesignating subclauses (VI) through (XI) as subclauses (VII) through (XII), respectively; and

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(3) by adding after subclause (IV) the following:

"(V) employment in the transportation sector;

"(VI) the effects of the transportation system, including advanced technologies and automation, on global and domestic economic competitiveness;".

SEC. 25005. STRENGTHENING MOBILITY AND REVOLUTIONIZING TRANSPORTATION GRANT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a State;

(B) a political subdivision of a State;

(C) a Tribal government;

(D) a public transit agency or authority;

(E) a public toll authority;

(F) a metropolitan planning organization; and

(G) a group of 2 or more eligible entities described in any of subparagraphs (A) through (F) applying through a single lead applicant.

(2) ELIGIBLE PROJECT.—The term "eligible project" means a project described in subsection (e).

(3) LARGE COMMUNITY.—The term "large community" means a community with a population of not less than 400,000 individuals, as determined under the most recent annual estimate of the Bureau of the Census.

(4) MIDSIZED COMMUNITY.—The term "midsized community" means any community that is not a large community or a rural community.

(5) REGIONAL PARTNERSHIP.—The term "regional partnership" means a partnership composed of 2 or more eligible entities located in jurisdictions with a combined population that is equal to or greater than the population of any midsized community.

(6) RURAL COMMUNITY.—The term "rural community" means a community that is located in an area that is outside of an urbanized area (as defined in section 5302 of title 49, United States Code).

(7) SMART GRANT.—The term "SMART grant" means a grant provided to an eligible entity under the Strengthening Mobility and Revolutionizing Transportation Grant Program established under subsection (b).

(b) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program, to be known as the "Strengthening Mobility and Revolutionizing Transportation Grant Program", under which the Secretary shall provide grants to eligible entities to conduct demonstration projects focused on advanced smart city or community technologies and systems in a variety of communities to improve transportation efficiency and safety.

(c) DISTRIBUTION.—In determining the projects for which to provide a SMART grant, the Secretary shall consider contributions to geographical diversity among grant recipients, including the need for balancing the needs of rural communities, midsized communities, and large communities, consistent with the requirements of subparagraphs (A) through (C) of subsection (g)(1).

(d) APPLICATIONS.—

(1) IN GENERAL.—An eligible entity may submit to the Secretary an application for a SMART grant at such time,

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in such manner, and containing such information as the Secretary may require.

(2) TRANSPARENCY.—The Secretary shall include, in any notice of funding availability relating to SMART grants, a full description of the method by which applications under paragraph (1) will be evaluated.

(3) SELECTION CRITERIA.—

(A) IN GENERAL.—The Secretary shall evaluate applications for SMART grants based on—

(i) the extent to which the eligible entity or applicable beneficiary community—

(I) has a public transportation system or other transit options capable of integration with other systems to improve mobility and efficiency;

(II) has a population density and transportation needs conducive to demonstrating proposed strategies;

(III) has continuity of committed leadership and the functional capacity to carry out the proposed project;

(IV) is committed to open data sharing with the public; and

(V) is likely to successfully implement the proposed eligible project, including through technical and financial commitments from the public and private sectors; and

(ii) the extent to which a proposed eligible project will use advanced data, technology, and applications to provide significant benefits to a local area, a State, a region, or the United States, including the extent to which the proposed eligible project will—

(I) reduce congestion and delays for commerce and the traveling public;

(II) improve the safety and integration of transportation facilities and systems for pedestrians, bicyclists, and the broader traveling public;

(III) improve access to jobs, education, and essential services, including health care;

(IV) connect or expand access for underserved or disadvantaged populations and reduce transportation costs;

(V) contribute to medium- and long-term economic competitiveness;

(VI) improve the reliability of existing transportation facilities and systems;

(VII) promote connectivity between and among connected vehicles, roadway infrastructure, pedestrians, bicyclists, the public, and transportation systems

(VIII) incentivize private sector investments or partnerships, including by working with mobile and fixed telecommunication service providers, to the extent practicable;

(IX) improve energy efficiency or reduce pollution;

(X) increase the resiliency of the transportation system; and

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(XI) improve emergency response.

(B) PRIORITY.—In providing SMART grants, the Secretary shall give priority to applications for eligible projects that would—

(i) demonstrate smart city or community technologies in repeatable ways that can rapidly be scaled;

(ii) encourage public and private sharing of data and best practices;

(iii) encourage private-sector innovation by promoting industry-driven technology standards, open platforms, technology-neutral requirements, and interoperability;

(iv) promote a skilled workforce that is inclusive of minority or disadvantaged groups;

(v) allow for the measurement and validation of the cost savings and performance improvements associated with the installation and use of smart city or community technologies and practices;

(vi) encourage the adoption of smart city or community technologies by communities;

(vii) promote industry practices regarding cybersecurity; and

(viii) safeguard individual privacy.

(4) TECHNICAL ASSISTANCE.—On request of an eligible entity that submitted an application under paragraph (1) with respect to a project that is not selected for a SMART grant, the Secretary shall provide to the eligible entity technical assistance and briefings relating to the project.

(e) USE OF GRANT FUNDS.—

(1) ELIGIBLE PROJECTS.—

(A) IN GENERAL.—A SMART grant may be used to carry out a project that demonstrates at least 1 of the following:

(i) COORDINATED AUTOMATION.—The use of automated transportation and autonomous vehicles, while working to minimize the impact on the accessibility of any other user group or mode of travel.

(ii) CONNECTED VEHICLES.—Vehicles that send and receive information regarding vehicle movements in the network and use vehicle-to-vehicle and vehicle-to-everything communications to provide advanced and reliable connectivity.

(iii) INTELLIGENT, SENSOR-BASED INFRASTRUCTURE.—The deployment and use of a collective intelligent infrastructure that allows sensors to collect and report real-time data to inform everyday transportation-related operations and performance.

(iv) SYSTEMS INTEGRATION.—The integration of intelligent transportation systems with other existing systems and other advanced transportation technologies.

(v) COMMERCE DELIVERY AND LOGISTICS.—Innovative data and technological solutions supporting efficient goods movement, such as connected vehicle probe data, road weather data, or global positioning data to improve on-time pickup and delivery, improved travel time reliability, reduced fuel consumption and

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emissions, and reduced labor and vehicle maintenance costs.

(vi) LEVERAGING USE OF INNOVATIVE AVIATION TECHNOLOGY.—Leveraging the use of innovative aviation technologies, such as unmanned aircraft systems, to support transportation safety and efficiencies, including traffic monitoring and infrastructure inspection.

(vii) SMART GRID.—Development of a programmable and efficient energy transmission and distribution system to support the adoption or expansion of energy capture, electric vehicle deployment, or freight or commercial fleet fuel efficiency.

(viii) SMART TECHNOLOGY TRAFFIC SIGNALS.—Improving the active management and functioning of traffic signals, including through—

(I) the use of automated traffic signal performance measures;

(II) implementing strategies, activities, and projects that support active management of traffic signal operations, including through optimization of corridor timing, improved vehicle, pedestrian, and bicycle detection at traffic signals, or the use of connected vehicle technologies;

(III) replacing outdated traffic signals; or

(IV) for an eligible entity serving a population of less than 500,000, paying the costs of temporary staffing hours dedicated to updating traffic signal technology.

(2) ELIGIBLE PROJECT COSTS.—A SMART grant may be used for—

(A) development phase activities, including—

(i) planning;

(ii) feasibility analyses;

(iii) revenue forecasting;

(iv) environmental review;

(v) permitting;

(vi) preliminary engineering and design work;

(vii) systems development or information technology work; and

(viii) acquisition of real property (including land and improvements to land relating to an eligible project); and

(B) construction phase activities, including—

(i) construction;

(ii) reconstruction;

(iii) rehabilitation;

(iv) replacement;

(v) environmental mitigation;

(vi) construction contingencies; and

(vii) acquisition of equipment, including vehicles.

(3) PROHIBITED USES.—A SMART grant shall not be used—

(A) to reimburse any preaward costs or application preparation costs of the SMART grant application;

(B) for any traffic or parking enforcement activity; or

(C) to purchase or lease a license plate reader.

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(f) REPORTS.—

(1) ELIGIBLE ENTITIES.—Not later than 2 years after the date on which an eligible entity receives a SMART grant, and annually thereafter until the date on which the SMART grant is expended, the eligible entity shall submit to the Secretary an implementation report that describes—

(A) the deployment and operational costs of each eligible project carried out by the eligible entity, as compared to the benefits and savings from the eligible project; and

(B) the means by which each eligible project carried out by the eligible entity has met the original expectation, as projected in the SMART grant application, including—

(i) data describing the means by which the eligible project met the specific goals for the project, such as—

(I) reducing traffic-related fatalities and injuries;

(II) reducing traffic congestion or improving travel-time reliability;

(III) providing the public with access to real-time integrated traffic, transit, and multimodal transportation information to make informed travel decisions; or

(IV) reducing barriers or improving access to jobs, education, or various essential services;

(ii) the effectiveness of providing to the public real-time integrated traffic, transit, and multimodal transportation information to make informed travel decisions; and

(iii) lessons learned and recommendations for future deployment strategies to optimize transportation efficiency and multimodal system performance.

(2) GAO.—Not later than 4 years after the date of enactment of this Act, the Comptroller General of the United States shall conduct, and submit to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives a report describing the results of, a review of the SMART grant program under this section.

(3) SECRETARY.—

(A) REPORT TO CONGRESS.—Not later than 2 years after the date on which the initial SMART grants are provided under this section, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives a report that—

(i) describes each eligible entity that received a SMART grant;

(ii) identifies the amount of each SMART grant provided;

(iii) summarizes the intended uses of each SMART grant;

(iv) describes the effectiveness of eligible entities in meeting the goals described in the SMART grant

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application of the eligible entity, including an assessment or measurement of the realized improvements or benefits resulting from each SMART grant; and

(v) describes lessons learned and recommendations for future deployment strategies to optimize transportation efficiency and multimodal system performance.

(B) BEST PRACTICES.—The Secretary shall—

(i) develop and regularly update best practices based on, among other information, the data, lessons learned, and feedback from eligible entities that received SMART grants;

(ii) publish the best practices under clause (i) on a publicly available website; and

(iii) update the best practices published on the website under clause (ii) regularly.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Secretary $100,000,000 for each of the first 5 fiscal years beginning after the date of enactment of this Act, of which—

(A) not more than 40 percent shall be used to provide SMART grants for eligible projects that primarily benefit large communities;

(B) not more than 30 percent shall be provided for eligible projects that primarily benefit midsized communities; and

(C) not more than 30 percent shall be used to provide SMART grants for eligible projects that primarily benefit rural communities or regional partnerships.

(2) ADMINISTRATIVE COSTS.—Of the amounts made available under paragraph (1) for each fiscal year, not more than 2 percent shall be used for administrative costs of the Secretary in carrying out this section.

(3) LIMITATION.—An eligible entity may not use more than 3 percent of the amount of a SMART grant for each fiscal year to achieve compliance with applicable planning and reporting requirements.

(4) AVAILABILITY.—The amounts made available for a fiscal year pursuant to this subsection shall be available for obligation during the 2-fiscal-year period beginning on the first day of the fiscal year for which the amounts were appropriated.

SEC. 25006. ELECTRIC VEHICLE WORKING GROUP.

(a) DEFINITIONS.—In this section:

(1) SECRETARIES.—The term "Secretaries" means—

(A) the Secretary; and

(B) the Secretary of Energy.

(2) WORKING GROUP.—The term "working group" means the electric vehicle working group established under subsection (b)(1).

(b) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretaries shall jointly establish an electric vehicle working group to make recommendations regarding the development, adoption, and integration of light-, medium-, and heavy-duty electric vehicles into the transportation and energy systems of the United States.

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(2) MEMBERSHIP.—

(A) IN GENERAL.—The working group shall be composed of—

(i) the Secretaries (or designees), who shall be cochairs of the working group; and

(ii) not more than 25 members, to be appointed by the Secretaries, of whom—

(I) not more than 6 shall be Federal stakeholders as described in subparagraph (B); and

(II) not more than 19 shall be non-Federal stakeholders as described in subparagraph (C).

(B) FEDERAL STAKEHOLDERS.—The working group—

(i) shall include not fewer than 1 representative of each of—

(I) the Department;

(II) the Department of Energy;

(III) the Environmental Protection Agency;

(IV) the Council on Environmental Quality; and

(V) the General Services Administration; and

(ii) may include a representative of any other Federal agency the Secretaries consider to be appropriate.

(C) NON-FEDERAL STAKEHOLDERS.—

(i) IN GENERAL.—Subject to clause (ii), the working group—

(I) shall include not fewer than 1 representative of each of—

(aa) a manufacturer of light-duty electric vehicles or the relevant components of light-duty electric vehicles;

(bb) a manufacturer of medium- and heavy-duty vehicles or the relevant components of medium- and heavy-duty electric vehicles;

(cc) a manufacturer of electric vehicle batteries;

(dd) an owner, operator, or manufacturer of electric vehicle charging equipment;

(ee) the public utility industry;

(ff) a public utility regulator or association of public utility regulators;

(gg) the transportation fueling distribution industry;

(hh) the energy provider industry;

(ii) the automotive dealing industry;

(jj) the for-hire passenger transportation industry;

(kk) an organization representing units of local government;

(ll) an organization representing regional transportation or planning agencies;

(mm) an organization representing State departments of transportation;

(nn) an organization representing State departments of energy or State energy planners;

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(oo) the intelligent transportation systems and technologies industry;

(pp) labor organizations representing workers in transportation manufacturing, construction, or operations;

(qq) the trucking industry;

(rr) Tribal governments; and

(ss) the property development industry; and

(II) may include a representative of any other non-Federal stakeholder that the Secretaries consider to be appropriate.

(ii) REQUIREMENT.—The stakeholders selected under clause (i) shall, in the aggregate—

(I) consist of individuals with a balance of backgrounds, experiences, and viewpoints; and

(II) include individuals that represent geographically diverse regions of the United States, including individuals representing the perspectives of rural, urban, and suburban areas.

(D) COMPENSATION.—A member of the working group shall serve without compensation.

(3) MEETINGS.—

(A) IN GENERAL.—The working group shall meet not less frequently than once every 120 days.

(B) REMOTE PARTICIPATION.—A member of the working group may participate in a meeting of the working group via teleconference or similar means.

(4) COORDINATION.—In carrying out the duties of the working group, the working group shall coordinate and consult with any existing Federal interagency working groups on fleet conversion or other similar matters relating to electric vehicles.

(c) REPORTS AND STRATEGY ON ELECTRIC VEHICLE ADOPTION.—

(1) WORKING GROUP REPORTS.—The working group shall complete by each of the deadlines described in paragraph (2) a report describing the status of electric vehicle adoption including—

(A) a description of the barriers and opportunities to scaling up electric vehicle adoption throughout the United States, including recommendations for issues relating to—

(i) consumer behavior;

(ii) charging infrastructure needs, including standardization and cybersecurity;

(iii) manufacturing and battery costs, including the raw material shortages for batteries and electric motor magnets;

(iv) the adoption of electric vehicles for low- and moderate-income individuals and underserved communities, including charging infrastructure access and vehicle purchase financing;

(v) business models for charging personal electric vehicles outside the home, including wired and wireless charging;

(vi) charging infrastructure permitting and regulatory issues;

(vii) the connections between housing and transportation costs and emissions;

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(viii) freight transportation, including local, port and drayage, regional, and long-haul trucking;

(ix) intercity passenger travel;

(x) the process by which governments collect a user fee for the contribution of electric vehicles to funding roadway improvements;

(xi) State- and local-level policies, incentives, and zoning efforts;

(xii) the installation of highway corridor signage;

(xiii) secondary markets and recycling for batteries;

(xiv) grid capacity and integration;

(xv) energy storage; and

(xvi) specific regional or local issues that may not appear to apply throughout the United States, but may hamper nationwide adoption or coordination of electric vehicles;

(B) examples of successful public and private models and demonstration projects that encourage electric vehicle adoption;

(C) an analysis of current efforts to overcome the barriers described in subparagraph (A);

(D) an analysis of the estimated costs and benefits of any recommendations of the working group; and

(E) any other topics, as determined by the working group.

(2) DEADLINES.—A report under paragraph (1) shall be submitted to the Secretaries, the Committees on Commerce, Science, and Transportation and Appropriations of the Senate and the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives—

(A) in the case of the first report, by not later than 18 months after the date on which the working group is established under subsection (b)(1);

(B) in the case of the second report, by not later than 2 years after the date on which the first report is required to be submitted under subparagraph (A); and

(C) in the case of the third report, by not later than 2 years after the date on which the second report is required to be submitted under subparagraph (B).

(3) STRATEGY.—

(A) IN GENERAL.—Based on the reports submitted by the working group under paragraph (1), the Secretaries shall jointly develop, maintain, and update a strategy that describes the means by which the Federal Government, States, units of local government, and industry can—

(i) establish quantitative targets for transportation electrification;

(ii) overcome the barriers described in paragraph (1)(A);

(iii) identify areas of opportunity in research and development to improve battery manufacturing, mineral mining, recycling costs, material recovery, fire risks, and battery performance for electric vehicles;

(iv) enhance Federal interagency coordination to promote electric vehicle adoption;

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(v) prepare the workforce for the adoption of electric vehicles, including through collaboration with labor unions, educational institutions, and relevant manufacturers;

(vi) expand electric vehicle and charging infrastructure;

(vii) expand knowledge of the benefits of electric vehicles among the general public;

(viii) maintain the global competitiveness of the United States in the electric vehicle and charging infrastructure markets;

(ix) provide clarity in regulations to improve national uniformity with respect to electric vehicles; and

(x) ensure the sustainable integration of electric vehicles into the national electric grid.

(B) NOTICE AND COMMENT.—In carrying out subparagraph (A), the Secretaries shall provide public notice and opportunity for comment on the strategy described in that subparagraph.

(4) INFORMATION.—

(A) IN GENERAL.—The Secretaries may enter into an agreement with the Transportation Research Board of the National Academies of Sciences, Engineering, and Medicine to provide, track, or report data, information, or research to assist the working group in carrying out paragraph (1).

(B) USE OF EXISTING INFORMATION.—In developing a report under paragraph (1) or a strategy under paragraph (3), the Secretaries and the working group shall take into consideration existing Federal, State, local, private sector, and academic data and information relating to electric vehicles and, to the maximum extent practicable, coordinate with the entities that publish that information—

(i) to prevent duplication of efforts by the Federal Government; and

(ii) to leverage existing information and complementary efforts.

(d) COORDINATION.—To the maximum extent practicable, the Secretaries and the working group shall carry out this section using all available existing resources, websites, and databases of Federal agencies, such as—

(1) the Alternative Fuels Data Center;

(2) the Energy Efficient Mobility Systems program; and

(3) the Clean Cities Coalition Network.

(e) TERMINATION.—The working group shall terminate on submission of the third report required under subsection (c)(2)(C).

SEC. 25007. RISK AND SYSTEM RESILIENCE.

(a) IN GENERAL.—The Secretary, in consultation with appropriate Federal, State, and local agencies, shall develop a process for quantifying annual risk in order to increase system resilience with respect to the surface transportation system of the United States by measuring—

(1) resilience to threat probabilities by type of hazard and geographical location;

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(2) resilience to asset vulnerabilities with respect to each applicable threat; and

(3) anticipated consequences from each applicable threat to each asset.

(b) USE BY STATE, REGIONAL, TRIBAL, AND LOCAL ENTITIES.—

(1) IN GENERAL.—The Secretary shall provide the process developed under subsection (a) to State departments of transportation, metropolitan planning organizations, Indian Tribes, local governments, and other relevant entities.

(2) GUIDANCE AND TECHNICAL ASSISTANCE.—The Secretary shall provide to the entities described in paragraph (1) guidance and technical assistance on the use of the process referred to in that paragraph.

(c) RESEARCH.—

(1) IN GENERAL.—The Secretary shall—

(A) identify and support fundamental research to develop a framework and quantitative models to support compilation of information for risk-based analysis of transportation assets by standardizing the basis for quantifying annual risk and increasing system resilience; and

(B) build on existing resilience research, including studies conducted by—

(i) the Transportation Research Board of the National Academies of Sciences, Engineering, and Medicine; and

(ii) the National Institute of Standards and Technology.

(2) USE OF EXISTING FACILITIES.—In carrying out paragraph (1), the Secretary shall use existing research facilities available to the Secretary, including the Turner–Fairbank Highway Research Center and University Transportation Centers established under section 5505 of title 49, United States Code.

SEC. 25008. COORDINATION ON EMERGING TRANSPORTATION TECHNOLOGY.

(a) IN GENERAL.—Subchapter I of chapter 3 of title 49, United States Code, is amended by adding at the end the following:

"§ 313. Nontraditional and Emerging Transportation Technology Council

"(a) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this section, the Secretary of Transportation (referred to in this section as the 'Secretary') shall establish a council, to be known as the 'Nontraditional and Emerging Transportation Technology Council' (referred to in this section as the 'Council'), to address coordination on emerging technology issues across all modes of transportation.

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The Council shall be composed of—

"(A) the Secretary, who shall serve as an ex officio member of the Council;

"(B) the Deputy Secretary of Transportation;

"(C) the Under Secretary of Transportation for Policy;

"(D) the Assistant Secretary for Research and Technology of the Department of Transportation;

"(E) the Assistant Secretary for Budget and Programs of the Department of Transportation;

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"(F) the General Counsel of the Department of Transportation;

"(G) the Chief Information Officer of the Department of Transportation;

"(H) the Administrator of the Federal Aviation Administration;

"(I) the Administrator of the Federal Highway Administration;

"(J) the Administrator of the Federal Motor Carrier Safety Administration;

"(K) the Administrator of the Federal Railroad Administration;

"(L) the Administrator of the Federal Transit Administration;

"(M) the Administrator of the Maritime Administration;

"(N) the Administrator of the National Highway Traffic Safety Administration;

"(O) the Administrator of the Pipeline and Hazardous Materials Safety Administration; and

"(P) any other official of the Department of Transportation, as determined by the Secretary.

"(2) CHAIR AND VICE CHAIR.—

"(A) CHAIR.—The Deputy Secretary of Transportation (or a designee) shall serve as Chair of the Council.

"(B) VICE CHAIR.—The Under Secretary of Transportation for Policy (or a designee) shall serve as Vice Chair of the Council.

"(c) DUTIES.—The Council shall—

"(1) identify and resolve jurisdictional and regulatory gaps or inconsistencies associated with nontraditional and emerging transportation technologies, modes, or projects pending or brought before the Department of Transportation to reduce, to the maximum extent practicable, impediments to the prompt and safe deployment of new and innovative transportation technology, including with respect to—

"(A) safety oversight;

"(B) environmental review; and

"(C) funding and financing issues;

"(2) coordinate the response of the Department of Transportation to nontraditional and emerging transportation technology projects;

"(3) engage with stakeholders in nontraditional and emerging transportation technology projects; and

"(4) develop and establish Department of Transportation-wide processes, solutions, and best practices for identifying and managing nontraditional and emerging transportation technology projects.

"(d) BEST PRACTICES.—Not later than 1 year after the date of enactment of this section, the Council shall—

"(1) publish initial guidelines to achieve the purposes described in subsection (c)(4); and

"(2) promote each modal administration within the Department of Transportation to further test and support the advancement of nontraditional and emerging transportation technologies not specifically considered by the Council.

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"(e) SUPPORT.—The Office of the Secretary shall provide support for the Council.

"(f) MEETINGS.—The Council shall meet not less frequently than 4 times per year, at the call of the Chair.

"(g) LEAD MODAL ADMINISTRATION.—For each nontraditional or emerging transportation technology, mode, or project associated with a jurisdictional or regulatory gap or inconsistency identified under subsection (c)(1), the Chair of the Council shall—

"(1) designate a lead modal administration of the Department of Transportation for review of the technology, mode, or project; and

"(2) arrange for the detailing of staff between modal administrations or offices of the Department of Transportation as needed to maximize the sharing of experience and expertise.

"(h) TRANSPARENCY.—Not later than 1 year after the date of establishment of the Council, and not less frequently than annually thereafter until December 31, 2026, the Council shall post on a publicly accessible website a report describing the activities of the Council during the preceding calendar year.".

(b) CLERICAL AMENDMENT.—The analysis for subchapter I of chapter 3 of title 49, United States Code, is amended by adding at the end the following:

"313. Nontraditional and Emerging Transportation Technology Council.".

SEC. 25009. INTERAGENCY INFRASTRUCTURE PERMITTING IMPROVEMENT CENTER.

(a) IN GENERAL.—Section 102 of title 49, United States Code (as amended by section 14009), is amended—

(1) in subsection (a), by inserting "(referred to in this section as the 'Department')" after "Transportation";

(2) in subsection (b), in the first sentence, by inserting "(referred to in this section as the 'Secretary')" after "Transportation";

(3) by redesignating subsection (h) as subsection (i); and

(4) by inserting after subsection (g) the following:

"(h) INTERAGENCY INFRASTRUCTURE PERMITTING IMPROVEMENT CENTER.—

"(1) DEFINITIONS.—In this subsection:

"(A) CENTER.—The term 'Center' means the Interagency Infrastructure Permitting Improvement Center established by paragraph (2).

"(B) PROJECT.—The term 'project' means a project authorized or funded under—

"(i) this title; or

"(ii) title 14, 23, 46, or 51.

"(2) ESTABLISHMENT.—There is established within the Office of the Secretary a center, to be known as the 'Interagency Infrastructure Permitting Improvement Center'.

"(3) PURPOSES.—The purposes of the Center shall be—

"(A) to implement reforms to improve interagency coordination and expedite projects relating to the permitting and environmental review of major transportation infrastructure projects, including—

"(i) developing and deploying information technology tools to track project schedules and metrics; and

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"(ii) improving the transparency and accountability of the permitting process;

"(B)(i) to identify appropriate methods to assess environmental impacts; and

"(ii) to develop innovative methods for reasonable mitigation;

"(C) to reduce uncertainty and delays with respect to environmental reviews and permitting; and

"(D) to reduce costs and risks to taxpayers in project delivery.

"(4) EXECUTIVE DIRECTOR.—The Center shall be headed by an Executive Director, who shall—

"(A) report to the Under Secretary of Transportation for Policy;

"(B) be responsible for the management and oversight of the daily activities, decisions, operations, and personnel of the Center; and

"(C) carry out such additional duties as the Secretary may prescribe.

"(5) DUTIES.—The Center shall carry out the following duties:

"(A) Coordinate and support implementation of priority reform actions for Federal agency permitting and reviews.

"(B) Support modernization efforts at the operating administrations within the Department and interagency pilot programs relating to innovative approaches to the permitting and review of transportation infrastructure projects.

"(C) Provide technical assistance and training to Department staff on policy changes, innovative approaches to project delivery, and other topics, as appropriate.

"(D) Identify, develop, and track metrics for timeliness of permit reviews, permit decisions, and project outcomes.

"(E) Administer and expand the use of online transparency tools providing for—

"(i) tracking and reporting of metrics;

"(ii) development and posting of schedules for permit reviews and permit decisions;

"(iii) the sharing of best practices relating to efficient project permitting and reviews; and

"(iv) the visual display of relevant geospatial data to support the permitting process.

"(F) Submit to the Secretary reports describing progress made toward achieving—

"(i) greater efficiency in permitting decisions and review of infrastructure projects; and

"(ii) better outcomes for communities and the environment.

"(6) INNOVATIVE BEST PRACTICES.—

"(A) IN GENERAL.—The Center shall work with the operating administrations within the Department, eligible entities, and other public and private interests to develop and promote best practices for innovative project delivery.

"(B) ACTIVITIES.—The Center shall support the Department and operating administrations in conducting environmental reviews and permitting, together with project sponsor technical assistance activities, by—

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"(i) carrying out activities that are appropriate and consistent with the goals and policies of the Department to improve the delivery timelines for projects;

"(ii) serving as the Department liaison to—

"(I) the Council on Environmental Quality; and

"(II) the Federal Permitting Improvement Steering Council established by section 41002(a) of the Fixing America's Surface Transportation Act (42 U.S.C. 4370m–1(a));

"(iii) supporting the National Surface Transportation and Innovative Finance Bureau (referred to in this paragraph as the 'Bureau') in implementing activities to improve delivery timelines, as described in section 116(f), for projects carried out under the programs described in section 116(d)(1) for which the Bureau administers the application process;

"(iv) leading activities to improve delivery timelines for projects carried out under programs not administered by the Bureau by—

"(I) coordinating efforts to improve the efficiency and effectiveness of the environmental review and permitting process;

"(II) providing technical assistance and training to field and headquarters staff of Federal agencies with respect to policy changes and innovative approaches to the delivery of projects; and

"(III) identifying, developing, and tracking metrics for permit reviews and decisions by Federal agencies for projects under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(C) NEPA COMPLIANCE ASSISTANCE.—

"(i) IN GENERAL.—Subject to clause (ii), at the request of an entity that is carrying out a project, the Center, in coordination with the appropriate operating administrations within the Department, shall provide technical assistance relating to compliance with the applicable requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and applicable Federal authorizations.

"(ii) ASSISTANCE FROM THE BUREAU.—For projects carried out under the programs described in section 116(d)(1) for which the Bureau administers the application process, the Bureau, on request of the entity carrying out the project, shall provide the technical assistance described in clause (i).".

(b) CONFORMING AMENDMENT.—Section 116(f)(2) of title 49, United States Code, is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B) through (D) and subparagraphs (A) through (C), respectively.

SEC. 25010. RURAL OPPORTUNITIES TO USE TRANSPORTATION FOR ECONOMIC SUCCESS INITIATIVE.

(a) DEFINITIONS.—In this section:

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(1) BUILD AMERICA BUREAU.—The term "Build America Bureau" means the National Surface Transportation and Innovative Finance Bureau established under section 116 of title 49, United States Code.

(2) INDIAN TRIBE.—The term "Indian Tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

(3) ROUTES COUNCIL.—The term "ROUTES Council" means the Rural Opportunities to Use Transportation for Economic Success Council established by subsection (c)(1).

(4) ROUTES OFFICE.—The term "ROUTES Office" means the Rural Opportunities to Use Transportation for Economic Success Office established by subsection (b)(1).

(b) ROUTES OFFICE.—

(1) IN GENERAL.—The Secretary shall establish within the Department the Rural Opportunities to Use Transportation for Economic Success Office—

(A) to improve analysis of projects from rural areas, Indian Tribes, and historically disadvantaged communities in rural areas applying for Department discretionary grants, including ensuring that project costs, local resources, and the larger benefits to the people and the economy of the United States are appropriately considered; and

(B) to provide rural communities, Indian Tribes, and historically disadvantaged communities in rural areas with technical assistance for meeting the transportation infrastructure investment needs of the United States in a financially sustainable manner.

(2) OBJECTIVES.—The ROUTES Office shall—

(A) collect input from knowledgeable entities and the public on—

(i) the benefits of rural and Tribal transportation projects;

(ii) the technical and financial assistance required for constructing and operating transportation infrastructure and services within rural areas and on the land of Indian Tribes;

(iii) barriers and opportunities to funding transportation projects in rural areas and on the land of Indian Tribes; and

(iv) unique transportation barriers and challenges faced by Indian Tribes and historically disadvantaged communities in rural areas;

(B) evaluate data on transportation challenges faced by rural communities and Indian Tribes and determine methods to align the discretionary funding and financing opportunities of the Department with the needs of those communities for meeting national transportation goals;

(C) provide education and technical assistance to rural communities and Indian Tribes about applicable Department discretionary grants, develop effective methods to evaluate projects in those communities in discretionary grant programs, and communicate those methods through program guidance;

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(D) carry out research and utilize innovative approaches to resolve the transportation challenges faced by rural areas and Indian Tribes; and

(E) perform such other duties as determined by the Secretary.

(c) ROUTES COUNCIL.—

(1) IN GENERAL.—The Secretary shall establish a Rural Opportunities to Use Transportation for Economic Success Council—

(A) to organize, guide, and lead the ROUTES Office; and

(B) to coordinate rural-related and Tribal-related funding programs and assistance among the modal administrations of the Department, the offices of the Department, and other Federal agencies, as appropriate—

(i) to ensure that the unique transportation needs and attributes of rural areas and Indian Tribes are fully addressed during the development and implementation of programs, policies, and activities of the Department;

(ii) to increase coordination of programs, policies, and activities of the Department in a manner that improves and expands transportation infrastructure in order to further economic development in, and the quality of life of, rural areas and Indian Tribes; and

(iii) to provide rural areas and Indian Tribes with proactive outreach—

(I) to improve access to discretionary funding and financing programs; and

(II) to facilitate timely resolution of environmental reviews for complex or high-priority projects.

(2) MEMBERSHIP.—

(A) IN GENERAL.—The ROUTES Council shall be composed of the following officers of the Department, or their designees:

(i) The Deputy Secretary of Transportation.

(ii) The Under Secretary of Transportation for Policy.

(iii) The General Counsel.

(iv) The Chief Financial Officer and Assistant Secretary for Budget and Programs.

(v) The Assistant Secretary for Research and Technology.

(vi) The Assistant Secretary for Multimodal Freight.

(vii) The Administrators of—

(I) the Federal Aviation Administration;

(II) the Federal Highway Administration;

(III) the Federal Railroad Administration; and

(IV) the Federal Transit Administration.

(viii) The Executive Director of the Build America Bureau.

(ix) The Assistant Secretary for Governmental Affairs.

(x) The Assistant Secretary for Transportation Policy.

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(xi) The Deputy Assistant Secretary for Tribal Government Affairs.

(B) CHAIR.—The Deputy Secretary of Transportation shall be the Chair of the ROUTES Council.

(C) ADDITIONAL MEMBERS.—The Secretary or the Chair of the ROUTES Council may designate additional members to serve on the ROUTES Council.

(3) ADDITIONAL MODAL INPUT.—To address issues related to safety and transport of commodities produced in or by, or transported through, as applicable, rural areas, Indian Tribes, or the land of Indian Tribes, the ROUTES Council shall consult with the Administrators (or their designees) of—

(A) the Maritime Administration;

(B) the Great Lakes St. Lawrence Seaway Development Corporation; and

(C) the National Highway Traffic Safety Administration.

(4) DUTIES.—Members of the ROUTES Council shall—

(A) participate in all meetings and relevant ROUTES Council activities and be prepared to share information relevant to rural and Tribal transportation infrastructure projects and issues;

(B) provide guidance and leadership on rural and Tribal transportation infrastructure issues and represent the work of the ROUTES Council and the Department on those issues to external stakeholders; and

(C) recommend initiatives for the consideration of the Chair of the ROUTES Council to establish and staff any resulting activities or working groups.

(5) MEETINGS.—The ROUTES Council shall meet bimonthly.

(6) ADDITIONAL STAFFING.—The Secretary shall ensure that the ROUTES Council and ROUTES Office have adequate staff support to carry out the duties of the ROUTES Council and the ROUTES Office, respectively, under this section.

(7) WORK PRODUCTS AND DELIVERABLES.—The ROUTES Council may develop work products or deliverables to meet the goals of the ROUTES Council, including—

(A) an annual report to Congress describing ROUTES Council activities for the past year and expected activities for the coming year;

(B) any recommendations to enhance the effectiveness of Department discretionary grant programs regarding rural and Tribal infrastructure issues; and

(C) other guides and reports for relevant groups and the public.

SEC. 25011. SAFETY DATA INITIATIVE.

(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term "eligible entity" means—

(1) a State;

(2) a unit of local government;

(3) a transit agency or authority;

(4) a metropolitan planning organization;

(5) any other subdivision of a State or local government;

(6) an institution of higher education; and

(7) a multi-State or multijurisdictional group.

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(b) SAFETY DATA INITIATIVE.—

(1) ESTABLISHMENT.—The Secretary shall establish an initiative, to be known as the "Safety Data Initiative", to promote the use of data integration, data visualization, and advanced analytics for surface transportation safety through the development of innovative practices and products for use by Federal, State, and local entities.

(2) ACTIVITIES.—

(A) APPLIED RESEARCH.—

(i) IN GENERAL.—The Secretary shall support and carry out applied research to develop practices and products that will encourage the integration and use of traditional and new sources of safety data and safety information to improve policy and decisionmaking at the Federal, State, and local government levels.

(ii) METHODOLOGY.—In carrying out clause (i), the Secretary may—

(I) carry out demonstration programs;

(II) award grants and provide incentives to eligible entities;

(III) enter into partnerships with—

(aa) eligible entities;

(bb) private sector entities; and

(cc) National Laboratories; and

(IV) use any other tools, strategies, or methods that will result in the effective use of data and information for safety purposes.

(B) TOOLS AND PRACTICES.—In carrying out subparagraph (A), the Secretary, to the maximum extent practicable, shall—

(i) develop safety analysis tools for State and local governments, with a particular focus on State and local governments with limited capacity to perform safety analysis;

(ii)(I) identify innovative State and local government practices;

(II) incubate those practices for further development; and

(III) replicate those practices nationwide; and

(iii) transfer to State and local governments the results of the applied research carried out under that subparagraph.

(C) DATA SHARING.—

(i) IN GENERAL.—To inform the creation of information useful for safety policy and decisionmaking, the Secretary shall—

(I) encourage the sharing of data between and among Federal, State, and local transportation agencies; and

(II) leverage data from private sector entities.

(ii) GOALS.—The goals of the data-sharing activities under clause (i) shall include—

(I) the creation of data ecosystems to reduce barriers to the efficient integration and analysis of relevant datasets for use by safety professionals; and

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(II) the establishment of procedures adequate to ensure sufficient security, privacy, and confidentiality as needed to promote the sharing of sensitive or proprietary data.

(iii) MANAGEMENT OF DATA ECOSYSTEMS.—A data ecosystem described in clause (ii)(I) may be managed by—

(I) the Director of the Bureau of Transportation Statistics;

(II) 1 or more trusted third parties, as determined by the Secretary; or

(III) 1 or more other entities or partnerships capable of securing, managing, and analyzing sensitive or proprietary data.

(3) PLAN.—

(A) IN GENERAL.—The Safety Data Initiative shall be carried out pursuant to a plan to be jointly established by—

(i) the Under Secretary of Transportation for Policy;

(ii) the Chief Information Officer of the Department;

(iii) the Administrator of the National Highway Traffic Safety Administration;

(iv) the Administrator of the Federal Highway Administration;

(v) the Administrator of the Federal Motor Carrier Safety Administration;

(vi) the Administrator of the Federal Transit Administration; and

(vii) the Administrator of the Federal Railroad Administration.

(B) REQUIREMENT.—The plan established under subparagraph (A) shall include details regarding the means by which tools and innovations developed by projects carried out under the Safety Data Initiative will be transferred to the appropriate program of the Department for further implementation.

(C) DEADLINE.—Not later than 1 year after the date of enactment of this Act, the Secretary shall direct the officials described in clauses (i) through (vii) of subparagraph (A) to establish, by a date determined by the Secretary, the plan referred to in that subparagraph.

(4) TERMINATION.—The Safety Data Initiative shall terminate on the later of—

(A) the date that is 1 year after the date of enactment of this Act; and

(B) the date on which the Secretary makes the direction to officials described in paragraph (3)(C).

SEC. 25012. ADVANCED TRANSPORTATION RESEARCH.

(a) IN GENERAL.—Chapter 1 of title 49, United States Code (as amended by section 21101(a)), is amended by adding at the end the following:

"§ 119. Advanced Research Projects Agency–Infrastructure

"(a) DEFINITIONS.—In this section:

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"(1) ARPA–I.— The term 'ARPA–I' means the Advanced Research Projects Agency–Infrastructure established by subsection (b).

"(2) DEPARTMENT.—The term 'Department' means the Department of Transportation.

"(3) DIRECTOR.—The term 'Director' means the Director of ARPA–I appointed under subsection (d).

"(4) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(A) a unit of State or local government;

"(B) an institution of higher education;

"(C) a commercial entity;

"(D) a research foundation;

"(E) a trade or industry research collaborative;

"(F) a federally funded research and development center;

"(G) a research facility owned or funded by the Department;

"(H) a collaborative that includes relevant international entities; and

"(I) a consortia of 2 or more entities described in any of subparagraphs (A) through (H).

"(5) INFRASTRUCTURE.—

"(A) IN GENERAL.—The term 'infrastructure' means any transportation method or facility that facilitates the transit of goods or people within the United States (including territories).

"(B) INCLUSIONS.—The term 'infrastructure' includes—

"(i) roads;

"(ii) highways;

"(iii) bridges;

"(iv) airports;

"(v) rail lines;

"(vi) harbors; and

"(vii) pipelines.

"(6) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(b) ESTABLISHMENT.—There is established within the Department an agency, to be known as the 'Advanced Research Projects Agency–Infrastructure', to support the development of science and technology solutions—

"(1) to overcome long-term challenges; and

"(2) to advance the state of the art for United States transportation infrastructure.

"(c) GOALS.—

"(1) IN GENERAL.—The goals of ARPA–I shall be—

"(A) to advance the transportation infrastructure of the United States by developing innovative science and technology solutions that—

"(i) lower the long-term costs of infrastructure development, including costs of planning, construction, and maintenance;

"(ii) reduce the lifecycle impacts of transportation infrastructure on the environment, including through the reduction of greenhouse gas emissions;

"(iii) contribute significantly to improving the safe, secure, and efficient movement of goods and people; and

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"(iv) promote the resilience of infrastructure from physical and cyber threats; and

"(B) to ensure that the United States is a global leader in developing and deploying advanced transportation infrastructure technologies and materials.

"(2) RESEARCH PROJECTS.—ARPA–I shall achieve the goals described in paragraph (1) by providing assistance under this section for infrastructure research projects that—

"(A) advance novel, early-stage research with practicable application to transportation infrastructure;

"(B) translate techniques, processes, and technologies, from the conceptual phase to prototype, testing, or demonstration;

"(C) develop advanced manufacturing processes and technologies for the domestic manufacturing of novel transportation-related technologies; and

"(D) accelerate transformational technological advances in areas in which industry entities are unlikely to carry out projects due to technical and financial uncertainty.

"(d) DIRECTOR.—

"(1) APPOINTMENT.—ARPA–I shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) QUALIFICATIONS.—The Director shall be an individual who, by reason of professional background and experience, is especially qualified to advise the Secretary regarding, and manage research programs addressing, matters relating to the development of science and technology solutions to advance United States transportation infrastructure.

"(3) RELATIONSHIP TO SECRETARY.—The Director shall—

"(A) be located within the Office of the Assistant Secretary for Research and Technology; and

"(B) report to the Secretary.

"(4) RELATIONSHIP TO OTHER PROGRAMS.—No other program within the Department shall report to the Director.

"(5) RESPONSIBILITIES.—The responsibilities of the Director shall include—

"(A) approving new programs within ARPA–I;

"(B) developing funding criteria, and assessing the success of programs, to achieve the goals described in subsection (c)(1) through the establishment of technical milestones;

"(C) administering available funding by providing to eligible entities assistance to achieve the goals described in subsection (c)(1);

"(D) terminating programs carried out under this section that are not achieving the goals of the programs; and

"(E) establishing a process through which eligible entities can submit to ARPA–I unsolicited research proposals for assistance under this section in accordance with subsection (f).

"(e) PERSONNEL.—

"(1) IN GENERAL.—The Director shall establish and maintain within ARPA–I a staff with sufficient qualifications and expertise to enable ARPA–I to carry out the responsibilities

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under this section, in conjunction with other operations of the Department.

"(2) PROGRAM DIRECTORS.—

"(A) IN GENERAL.—The Director shall designate employees to serve as program directors for ARPA–I.

"(B) RESPONSIBILITIES.—Each program director shall be responsible for—

"(i) establishing research and development goals for the applicable program, including by convening workshops and conferring with outside experts;

"(ii) publicizing the goals of the applicable program;

"(iii) soliciting applications for specific areas of particular promise, especially in areas that the private sector or the Federal Government are not likely to carry out absent assistance from ARPA–I;

"(iv) establishing research collaborations for carrying out the applicable program;

"(v) selecting on the basis of merit each project to be supported under the applicable program, taking into consideration—

"(I) the novelty and scientific and technical merit of proposed projects;

"(II) the demonstrated capabilities of eligible entities to successfully carry out proposed projects;

"(III) the extent to which an eligible entity took into consideration future commercial applications of a proposed project, including the feasibility of partnering with 1 or more commercial entities; and

"(IV) such other criteria as the Director may establish;

"(vi) identifying innovative cost-sharing arrangements for projects carried out or funded by ARPA–I;

"(vii) monitoring the progress of projects supported under the applicable program;

"(viii) identifying mechanisms for commercial application of successful technology development projects, including through establishment of partnerships between eligible entities and commercial entities; and

"(ix) as applicable, recommending—

"(I) program restructuring; or

"(II) termination of applicable research partnerships or projects.

"(C) TERM OF SERVICE.—A program director—

"(i) shall serve for a term of 3 years; and

"(ii) may be reappointed for any subsequent term of service.

"(3) HIRING AND MANAGEMENT.—

"(A) IN GENERAL.—The Director may—

"(i) make appointments of scientific, engineering, and professional personnel, without regard to the civil service laws;

"(ii) fix the basic pay of such personnel at such rate as the Director may determine, but not to exceed

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level II of the Executive Schedule, without regard to the civil service laws; and

"(iii) pay an employee appointed under this subparagraph payments in addition to basic pay, subject to the condition that the total amount of those additional payments for any 12-month period shall not exceed the least of—

"(I) $25,000;

"(II) an amount equal to 25 percent of the annual rate of basic pay of the employee; and

"(III) the amount of the applicable limitation for a calendar year under section 5307(a)(1) of title 5.

"(B) PRIVATE RECRUITING FIRMS.—The Director may enter into a contract with a private recruiting firm for the hiring of qualified technical staff to carry out this section.

"(C) ADDITIONAL STAFF.—The Director may use all authorities available to the Secretary to hire administrative, financial, and clerical staff, as the Director determines to be necessary to carry out this section.

"(f) RESEARCH PROPOSALS.—

"(1) IN GENERAL.—An eligible entity may submit to the Director an unsolicited research proposal at such time, in such manner, and containing such information as the Director may require, including a description of—

"(A) the extent of current and prior efforts with respect to the project proposed to be carried out using the assistance, if applicable; and

"(B) any current or prior investments in the technology area for which funding is requested, including as described in subsection (c)(2)(D).

"(2) REVIEW.—The Director—

"(A) shall review each unsolicited research proposal submitted under paragraph (1), taking into consideration—

"(i) the novelty and scientific and technical merit of the research proposal;

"(ii) the demonstrated capabilities of the applicant to successfully carry out the research proposal;

"(iii) the extent to which the applicant took into consideration future commercial applications of the proposed research project, including the feasibility of partnering with 1 or more commercial entities; and

"(iv) such other criteria as the Director may establish;

"(B) may approve a research proposal if the Director determines that the research—

"(i) is in accordance with—

"(I) the goals described in subsection (c)(1); or

"(II) an applicable transportation research and development strategic plan developed under section 6503; and

"(ii) would not duplicate any other Federal research being conducted or funded by another Federal agency; and

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"(C)(i) if funding is denied for the research proposal, shall provide to the eligible entity that submitted the proposal a written notice of the denial that, as applicable—

"(I) explains why the research proposal was not selected, including whether the research proposal fails to cover an area of need; and

"(II) recommends that the research proposal be submitted to another research program; or

"(ii) if the research proposal is approved for funding, shall provide to the eligible entity that submitted the proposal—

"(I) a written notice of the approval; and

"(II) assistance in accordance with subsection (g) for the proposed research.

"(g) FORMS OF ASSISTANCE.—On approval of a research proposal of an eligible entity, the Director may provide to the eligible entity assistance in the form of—

"(1) a grant;

"(2) a contract;

"(3) a cooperative agreement;

"(4) a cash prize; or

"(5) another, similar form of funding.

"(h) REPORTS AND ROADMAPS.—

"(1) ANNUAL REPORTS.—For each fiscal year, the Director shall provide to the Secretary, for inclusion in the budget request submitted by the Secretary to the President under section 1108 of title 31 for the fiscal year, a report that, with respect to the preceding fiscal year, describes—

"(A) the projects that received assistance from ARPA–I, including—

"(i) each such project that was funded as a result of an unsolicited research proposal; and

"(ii) each such project that examines topics or technologies closely related to other activities funded by the Department, including an analysis of whether the Director achieved compliance with subsection (i)(1) in supporting the project; and

"(B) the instances of, and reasons for, the provision of assistance under this section for any projects being carried out by industry entities.

"(2) STRATEGIC VISION ROADMAP.—Not later than October 1, 2022, and not less frequently than once every 4 years thereafter, the Director shall submit to the relevant authorizing and appropriations committees of Congress a roadmap describing the strategic vision that ARPA–I will use to guide the selection of future projects for technology investment during the 4 fiscal-year period beginning on the date of submission of the report.

"(i) COORDINATION AND NONDUPLICATION.—The Director shall ensure that—

"(1) the activities of ARPA–I are coordinated with, and do not duplicate the efforts of, programs and laboratories within—

"(A) the Department; and

"(B) other relevant research agencies; and

"(2) no funding is provided by ARPA–I for a project, unless the eligible entity proposing the project—

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"(A) demonstrates sufficient attempts to secure private financing; or

"(B) indicates that the project is not independently commercially viable.

"(j) FEDERAL DEMONSTRATION OF TECHNOLOGIES.—The Director shall seek opportunities to partner with purchasing and procurement programs of Federal agencies to demonstrate technologies resulting from activities funded through ARPA–I.

"(k) PARTNERSHIPS.—The Director shall seek opportunities to enter into contracts or partnerships with minority-serving institutions (as described in any of paragraphs (1) through (7) of section 371(a) of the Higher Education Act of 1965 (20 U.S.C. 1067q(a)))—

"(1) to accomplish the goals of ARPA–I;

"(2) to develop institutional capacity in advanced transportation infrastructure technologies and materials;

"(3) to engage underserved populations in developing, demonstrating, and deploying those technologies and materials; and

"(4) to otherwise address the needs of ARPA–I.

"(l) UNIVERSITY TRANSPORTATION CENTERS.—The Director may—

"(1) partner with university transportation centers under section 5505 to accomplish the goals, and address the needs, of ARPA–I; and

"(2) sponsor and select for funding, in accordance with section 5505, competitively selected university transportation center grants, in addition to the assistance provided under section 5505, to address targeted technology and material goals of ARPA–I.

"(m) ADVICE.—

"(1) ADVISORY COMMITTEES.—The Director may seek advice regarding any aspect of ARPA–I from—

"(A) an existing advisory committee, office, or other group within the Department; and

"(B) a new advisory committee organized to support the programs of ARPA–I by providing advice and assistance regarding—

"(i) specific program tasks; or

"(ii) the overall direction of ARPA–I.

"(2) ADDITIONAL SOURCES.—In carrying out this section, the Director may seek advice and review from—

"(A) the President's Council of Advisors on Science and Technology;

"(B) the Advanced Research Projects Agency–Energy; and

"(C) any professional or scientific organization with expertise relating to specific processes or technologies under development by ARPA–I.

"(n) EVALUATION.—

"(1) IN GENERAL.—Not later than December 27, 2024, the Secretary may enter into an arrangement with the National Academy of Sciences under which the National Academy shall conduct an evaluation of the achievement by ARPA–I of the goals described in subsection (c)(1).

"(2) INCLUSIONS.—The evaluation under paragraph (1) may include—

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"(A) a recommendation regarding whether ARPA–I should be continued;

"(B) a recommendation regarding whether ARPA–I, or the Department generally, should continue to allow entities to submit unsolicited research proposals; and

"(C) a description of—

"(i) the lessons learned from the operation of ARPA–I; and

"(ii) the manner in which those lessons may apply to the operation of other programs of the Department.

"(3) AVAILABILITY.—On completion of the evaluation under paragraph (1), the evaluation shall be made available to—

"(A) Congress; and

"(B) the public.

"(o) PROTECTION OF INFORMATION.—

"(1) IN GENERAL.—Each type of information described in paragraph (2) that is collected by ARPA–I from eligible entities shall be considered to be—

"(A) commercial and financial information obtained from a person;

"(B) privileged or confidential; and

"(C) not subject to disclosure under section 552(b)(4) of title 5.

"(2) DESCRIPTION OF TYPES OF INFORMATION.—The types of information referred to in paragraph (1) are—

"(A) information relating to plans for commercialization of technologies developed using assistance provided under this section, including business plans, technology-to-market plans, market studies, and cost and performance models;

"(B) information relating to investments provided to an eligible entity from a third party (such as a venture capital firm, a hedge fund, and a private equity firm), including any percentage of ownership of an eligible entity provided in return for such an investment;

"(C) information relating to additional financial support that the eligible entity—

"(i) plans to invest, or has invested, in the technology developed using assistance provided under this section; or

"(ii) is seeking from a third party; and

"(D) information relating to revenue from the licensing or sale of a new product or service resulting from research conducted using assistance provided under this section.

"(p) EFFECT ON EXISTING AUTHORITIES.—The authority provided by this section—

"(1) shall be in addition to any existing authority provided to the Secretary; and

"(2) shall not supersede or modify any other existing authority.

"(q) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section.

"(2) SEPARATE BUDGET AND APPROPRIATION.—

"(A) BUDGET REQUEST.—The budget request for ARPA–I shall be separate from the budget request of the remainder of the Department.

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"(B) APPROPRIATIONS.—The funding appropriated for ARPA–I shall be separate and distinct from the funding appropriated for the remainder of the Department.

"(3) ALLOCATION.—Of the amounts made available for a fiscal year under paragraph (1)—

"(A) not less than 5 percent shall be used for technology transfer and outreach activities—

"(i) in accordance with the goal described in subsection (c)(2)(D); and

"(ii) within the responsibilities of the program directors described in subsection (e)(2)(B)(viii); and

"(B) none may be used for the construction of any new building or facility during the 5-year period beginning on the date of enactment of the Surface Transportation Investment Act of 2021.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 1 of title 49, United States Code (as amended by section 21101(c)), is amended by adding at the end the following:

"119. Advanced Research Projects Agency–Infrastructure.".

SEC. 25013. OPEN RESEARCH INITIATIVE.

(a) IN GENERAL.—Subchapter I of chapter 55 of title 49, United States Code, is amended by adding at the end the following:

"§ 5506. Advanced transportation research initiative

"(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

"(1) a State agency;

"(2) a local government agency;

"(3) an institution of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)), including a university transportation center established under section 5505;

"(4) a nonprofit organization, including a nonprofit research organization; and

"(5) a private sector organization working in collaboration with an entity described in any of paragraphs (1) through (4).

"(b) PILOT PROGRAM.—The Secretary of Transportation (referred to in this section as the 'Secretary') shall establish an advanced transportation research pilot program under which the Secretary—

"(1) shall establish a process for eligible entities to submit to the Secretary unsolicited research proposals; and

"(2) may enter into arrangements with 1 or more eligible entities to fund research proposed under paragraph (1), in accordance with this section.

"(c) ELIGIBLE RESEARCH.—The Secretary may enter into an arrangement with an eligible entity under this section to fund research that—

"(1) addresses—

"(A) a research need identified by—

"(i) the Secretary; or

"(ii) the Administrator of a modal administration of the Department of Transportation; or

"(B) an issue that the Secretary determines to be important; and

"(2) is not duplicative of—

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"(A) any other Federal research project; or

"(B) any project for which funding is provided by another Federal agency.

"(d) PROJECT REVIEW.—The Secretary shall—

"(1) review each research proposal submitted under the pilot program established under subsection (b); and

"(2)(A) if funding is denied for the research proposal—

"(i) provide to the eligible entity that submitted the proposal a written notice of the denial that, as applicable—

"(I) explains why the research proposal was not selected, including whether the research proposal fails to cover an area of need; and

"(II) recommends that the research proposal be submitted to another research program; and

"(ii) if the Secretary recommends that the research proposal be submitted to another research program under clause (i)(II), provide guidance and direction to—

"(I) the eligible entity; and

"(II) the proposed research program office; or

"(B) if the research proposal is selected for funding—

"(i) provide to the eligible entity that submitted the proposal a written notice of the selection; and

"(ii) seek to enter into an arrangement with the eligible entity to provide funding for the proposed research.

"(e) COORDINATION.—

"(1) IN GENERAL.—The Secretary shall ensure that the activities carried out under subsection (c) are coordinated with, and do not duplicate the efforts of, programs of the Department of Transportation and other Federal agencies.

"(2) INTRAAGENCY COORDINATION.—The Secretary shall coordinate the research carried out under this section with—

"(A) the research, education, and technology transfer activities carried out by grant recipients under section 5505; and

"(B) the research, development, demonstration, and commercial application activities of other relevant programs of the Department of Transportation, including all modal administrations of the Department.

"(3) INTERAGENCY COLLABORATION.—The Secretary shall coordinate, as appropriate, regarding fundamental research with the potential for application in the transportation sector with—

"(A) the Director of the Office of Science and Technology Policy;

"(B) the Director of the National Science Foundation;

"(C) the Secretary of Energy;

"(D) the Director of the National Institute of Standards and Technology;

"(E) the Secretary of Homeland Security;

"(F) the Administrator of the National Oceanic and Atmospheric Administration;

"(G) the Secretary of Defense; and

"(H) the heads of other appropriate Federal agencies, as determined by the Secretary.

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"(f) REVIEW, EVALUATION, AND REPORT.—Not less frequently than biennially, in accordance with the plan developed under section 6503, the Secretary shall—

"(1) review and evaluate the pilot program established under subsection (b), including the research carried out under that pilot program; and

"(2) make public on a website of the Department of Transportation a report describing the review and evaluation under paragraph (1).

"(g) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of the cost of an activity carried out under this section shall not exceed 80 percent.

"(2) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners (including personnel, travel, facility, and hardware development costs) shall be credited toward the non-Federal share of the cost of an activity carried out under this section.

"(h) LIMITATION ON CERTAIN EXPENSES.—Of any amounts made available to carry out this section for a fiscal year, the Secretary may use not more than 1.5 percent for coordination, evaluation, and oversight activities under this section.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $50,000,000 for each of fiscal years 2022 through 2026.".

(b) CLERICAL AMENDMENT.—The analysis for subchapter I of chapter 55 of title 49, United States Code, is amended by adding at the end the following:

"5506. Advanced transportation research initiative.".

SEC. 25014. TRANSPORTATION RESEARCH AND DEVELOPMENT 5-YEAR STRATEGIC PLAN.

Section 6503 of title 49, United States Code, is amended—

(1) in subsection (a), by striking "The Secretary" and inserting "Not later than 180 days after the date of publication of the Department of Transportation Strategic Plan and not less frequently than once every 5 years thereafter, the Secretary";

(2) in subsection (b), in the matter preceding paragraph (1), by striking "The strategic" and inserting "Each strategic";

(3) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking "The strategic" and inserting "Each strategic"; and

(B) in paragraph (1)—

(i) in subparagraph (E), by striking "and" at the end;

(ii) in subparagraph (F), by adding "and" after the semicolon at the end; and

(iii) by adding at the end the following:

"(G) reducing transportation cybersecurity risks;";

(4) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking "the strategic" and inserting "each strategic"; and

(B) in paragraph (4), by striking "2016" and inserting "2021, and not less frequently than once every 5 years thereafter"; and

(5) by striking subsection (e).

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SEC. 25015. RESEARCH PLANNING MODIFICATIONS.

(a) ANNUAL MODAL RESEARCH PLANS.—Section 6501 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—Not later than June 1 of each year, the head of each modal administration and joint program office of the Department of Transportation shall prepare and submit to the Assistant Secretary for Research and Technology of the Department of Transportation (referred to in this chapter as the 'Assistant Secretary')—

"(A) a comprehensive annual modal research plan for the following fiscal year; and

"(B) a detailed outlook for the fiscal year thereafter.";

(B) in paragraph (2), by inserting "prepared or" before "submitted";

(C) by redesignating paragraph (2) as paragraph (3); and

(D) by inserting after paragraph (1) the following:

"(2) REQUIREMENTS.—Each plan under paragraph (1) shall include—

"(A) a general description of the strategic goals of the Department that are addressed by the research programs being carried out by the Assistant Secretary or modal administration, as applicable;

"(B) a description of each proposed research program, as described in the budget request submitted by the Secretary of Transportation to the President under section 1108 of title 31 for the following fiscal year, including—

"(i) the major objectives of the program; and

"(ii) the requested amount of funding for each program and area;

"(C) a list of activities the Assistant Secretary or modal administration plans to carry out under the research programs described in subparagraph (B);

"(D) an assessment of the potential impact of the research programs described in subparagraph (B), including—

"(i) potential outputs, outcomes, and impacts on technologies and practices used by entities subject to the jurisdiction of the modal administration;

"(ii) potential effects on applicable regulations of the modal administration, including the modification or modernization of those regulations;

"(iii) potential economic or societal impacts; and

"(iv) progress made toward achieving strategic goals of—

"(I) the applicable modal administration; or

"(II) the Department of Transportation;

"(E) a description of potential partnerships to be established to conduct the research program, including partnerships with—

"(i) institutions of higher education; and

"(ii) private sector entities; and

"(F) such other requirements as the Assistant Secretary considers to be necessary.";

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(2) in subsection (b)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by inserting "by the head of a modal administration or joint program office" after "submitted"; and

(ii) in subparagraph (B), by striking clause (ii) and inserting the following:

"(ii) request that the plan and outlook be—

"(I) revised in accordance with such suggestions as the Assistant Secretary shall include to ensure conformity with the criteria described in paragraph (2); and

"(II) resubmitted to the Assistant Secretary for approval.";

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(C) by inserting after paragraph (1) the following:

"(2) CRITERIA.—In conducting a review under paragraph (1)(A), the Assistant Secretary shall, with respect to the modal research plan that is the subject of the review—

"(A) take into consideration whether—

"(i) the plan contains research objectives that are consistent with the strategic research and policy objectives of the Department of Transportation included in the strategic plan required under section 6503; and

"(ii) the research programs described in the plan have the potential to benefit the safety, mobility, and efficiency of the United States transportation system;

"(B) identify and evaluate any potential opportunities for collaboration between or among modal administrations with respect to particular research programs described in the plan;

"(C) identify and evaluate whether other modal administrations may be better suited to carry out the research programs described in the plan;

"(D) assess whether any projects described in the plan are—

"(i) duplicative across modal administrations; or

"(ii) unnecessary; and

"(E) take into consideration such other criteria as the Assistant Secretary determines to be necessary."; and

(D) by adding at the end the following:

"(5) SAVINGS CLAUSE.—Nothing in this subsection limits the ability of the head of a modal administration to comply with applicable law."; and

(3) in subsection (c), in the matter preceding paragraph (1), by striking "subsection (b)(3)" and inserting "subsection (b)(4).

(b) CONSOLIDATED RESEARCH DATABASE.—Section 6502(a) of title 49, United States Code, is amended by striking the subsection designation and heading and all that follows through subparagraph (B) of paragraph (2) and inserting the following:

"(a) RESEARCH ABSTRACT DATABASE.—

"(1) SUBMISSION.—Not later than September 1 of each year, the head of each modal administration and joint program office of the Department of Transportation shall submit to the Assistant Secretary, for review and public posting, a description

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of each proposed research project to be carried out during the following fiscal year, including—

"(A) proposed funding for any new projects; and

"(B) proposed additional funding for any existing projects.

"(2) PUBLICATION.—Not less frequently than annually, after receiving the descriptions under paragraph (1), the Assistant Secretary shall publish on a public website a comprehensive database including a description of all research projects conducted by the Department of Transportation, including research funded through university transportation centers under section 5505.

"(3) CONTENTS.—The database published under paragraph (2) shall—

"(A) be delimited by research project; and

"(B) include a description of, with respect to each research project—

"(i) research objectives;

"(ii) the progress made with respect to the project, including whether the project is ongoing or complete;

"(iii) any outcomes of the project, including potential implications for policy, regulations, or guidance issued by a modal administration or the Department of Transportation;

"(iv) any findings of the project;

"(v) the amount of funds allocated for the project; and

"(vi) such other information as the Assistant Secretary determines to be necessary to address Departmental priorities and statutory mandates;".

SEC. 25016. INCORPORATION OF DEPARTMENT OF TRANSPORTATION RESEARCH.

(a) IN GENERAL.—Chapter 65 of title 49, United States Code, is amended by adding at the end the following:

"§ 6504. Incorporation of Department of Transportation research

"(a) REVIEW.—Not later than December 31, 2021, and not less frequently than once every 5 years thereafter, in concurrence with the applicable strategic plan under section 6503, the Secretary of Transportation shall—

"(1) conduct a review of research conducted by the Department of Transportation; and

"(2) to the maximum extent practicable and appropriate, identify modifications to laws, regulations, guidance, and other policy documents to incorporate any innovations resulting from the research described in paragraph (1) that have the potential to improve the safety or efficiency of the United States transportation system.

"(b) REQUIREMENTS.—In conducting a review under subsection (a), the Secretary of Transportation shall—

"(1) identify any innovative practices, materials, or technologies that have demonstrable benefits to the transportation system;

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"(2) determine whether the practices, materials, or technologies described in paragraph (1) require any statutory or regulatory modifications for adoption; and

"(3)(A) if modifications are determined to be required under paragraph (2), develop—

"(i) a proposal for those modifications; and

"(ii) a description of the manner in which any such regulatory modifications would be—

"(I) incorporated into the Unified Regulatory Agenda; or

"(II) adopted into existing regulations as soon as practicable; or

"(B) if modifications are determined not to be required under paragraph (2), develop a description of the means by which the practices, materials, or technologies described in paragraph (1) will otherwise be incorporated into Department of Transportation or modal administration policy or guidance, including as part of the Technology Transfer Program of the Office of the Assistant Secretary for Research and Technology.

"(c) REPORT.—On completion of each review under subsection (a), the Secretary of Transportation shall submit to the appropriate committees of Congress a report describing, with respect to the period covered by the report—

"(1) each new practice, material, or technology identified under subsection (b)(1); and

"(2) any statutory or regulatory modification for the adoption of such a practice, material, or technology that—

"(A) is determined to be required under subsection (b)(2); or

"(B) was otherwise made during that period.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 65 of title 49, United States Code, is amended by adding at the end the following:

"6504. Incorporation of Department of Transportation research.".

SEC. 25017. UNIVERSITY TRANSPORTATION CENTERS PROGRAM.

Section 5505 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting "of Transportation, acting through the Assistant Secretary for Research and Technology (referred to in this section as the 'Secretary')," after "The Secretary"; and

(B) in paragraph (2)—

(i) in subparagraph (B), by inserting "multimodal" after "critical"; and

(ii) in subparagraph (C), by inserting "with respect to the matters described in subparagraphs (A) through (G) of section 6503(c)(1)" after "transportation leaders";

(2) in subsection (b)—

(A) in paragraph (2)(A), by striking "for each of the transportation centers described under paragraphs (2), (3), and (4) of subsection (c)" and inserting "as a lead institution under this section, except as provided in subparagraph (B)";

(B) in paragraph (4)—

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(i) in subparagraph (A), by striking "identified in chapter 65" and inserting "described in subparagraphs (A) through (G) of section 6503(c)(1)"; and

(ii) in subparagraph (B), in the matter preceding clause (i), by striking "the Assistant Secretary" and all that follows through "modal administrations" and inserting "the heads of the modal administrations of the Department of Transportation,"; and

(C) in paragraph (5)(B), in the matter preceding clause (i), by striking "submit" and all that follows through "of the Senate" and inserting "make available to the public on a website of the Department of Transportation";

(3) in subsection (c)(3)(E)—

(A) by inserting ", including the cybersecurity implications of technologies relating to connected vehicles, connected infrastructure, and autonomous vehicles" after "autonomous vehicles"; and

(B) by striking "The Secretary" and inserting the following:

"(i) IN GENERAL.—A regional university transportation center receiving a grant under this paragraph shall carry out research focusing on 1 or more of the matters described in subparagraphs (A) through (G) of section 6503(c)(1).

"(ii) FOCUSED OBJECTIVES.—The Secretary"; and

(4) in subsection (d)—

(A) in paragraph (2)—

(i) in the paragraph heading, by striking "ANNUAL REVIEW" and inserting "REVIEW";

(ii) in the matter preceding subparagraph (A), by striking "annually" and inserting "biennially"; and

(iii) in subparagraph (B), by striking "submit" and all that follows through "of the Senate" and inserting "make available to the public on a website of the Department of Transportation"; and

(B) in paragraph (3), by striking "2016 through 2020" and inserting "2022 through 2026".

SEC. 25018. NATIONAL TRAVEL AND TOURISM INFRASTRUCTURE STRATEGIC PLAN.

(a) IN GENERAL.—Section 1431(e) of the FAST Act (49 U.S.C. 301 note; Public Law 114–94) is amended—

(1) by redesignating paragraphs (1) through (7) as subparagraphs (A) though (G), respectively, and indenting appropriately;

(2) in the matter preceding subparagraph (A) (as so redesignated)—

(A) by striking "Not later than 3 years after the date of enactment of this Act" and inserting "Not later than 180 days after the date of enactment of the Surface Transportation Investment Act of 2021"; and

(B) by striking "plan that includes" and inserting the following: "plan—

"(1) to develop an immediate-term and long-term strategy, including policy recommendations across all modes of transportation, for the Department and other agencies to use infrastructure investments to revive the travel and tourism industry

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and the overall travel and tourism economy in the wake of the Coronavirus Disease 2019 (COVID–19) pandemic; and

"(2) that includes"; and

(3) in paragraph (2) (as so redesignated)—

(A) in subparagraph (A) (as so redesignated), by inserting ", including consideration of the impacts of the COVID–19 pandemic" after "network";

(B) in subparagraph (D) (as so redesignated), by inserting "of regional significance" after "corridors";

(C) in subparagraph (F) (as so redesignated), by striking "and" at the end;

(D) in subparagraph (G) (as so redesignated), by striking the period at the end and inserting "; and"; and

(E) by adding at the end the following:

"(H) an identification of possible infrastructure investments that create recovery opportunities for small, underserved, minority, and rural businesses in the travel and tourism industry, including efforts to preserve and protect the scenic, but often less-traveled, roads that promote tourism and economic development throughout the United States.".

(b) CHIEF TRAVEL AND TOURISM OFFICER.—Section 102 of title 49, United States Code, is amended by striking subsection (i) (as redesignated by section 25009(a)(3)) and inserting the following:

"(i) CHIEF TRAVEL AND TOURISM OFFICER.—

"(1) ESTABLISHMENT.—There is established in the Office of the Secretary of Transportation a position, to be known as the 'Chief Travel and Tourism Officer'.

"(2) DUTIES.—The Chief Travel and Tourism Officer shall collaborate with the Assistant Secretary for Aviation and International Affairs to carry out—

"(A) the National Travel and Tourism Infrastructure Strategic Plan under section 1431(e) of Public Law 114–94 (49 U.S.C. 301 note); and

"(B) other travel- and tourism-related matters involving the Department of Transportation.".

SEC. 25019. LOCAL HIRING PREFERENCE FOR CONSTRUCTION JOBS.

(a) AUTHORIZATION.—

(1) IN GENERAL.—A recipient or subrecipient of a grant provided by the Secretary under title 23 or 49, United States Code, may implement a local or other geographical or economic hiring preference relating to the use of labor for construction of a project funded by the grant, including prehire agreements, subject to any applicable State and local laws, policies, and procedures.

(2) TREATMENT.—The use of a local or other geographical or economic hiring preference pursuant to paragraph (1) in any bid for a contract for the construction of a project funded by a grant described in paragraph (1) shall not be considered to unduly limit competition.

(b) WORKFORCE DIVERSITY REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report describing methods—

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(1) to ensure preapprenticeship programs are established and implemented to meet the needs of employers in transportation and transportation infrastructure construction industries, including with respect to the formal connection of the preapprenticeship programs to registered apprenticeship programs;

(2) to address barriers to employment (within the meaning of the Workforce Innovation and Opportunity Act (29 U.S.C. 3101 et seq.)) in transportation and transportation infrastructure construction industries for—

(A) individuals who are former offenders (as defined in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102));

(B) individuals with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)); and

(C) individuals that represent populations that are traditionally underrepresented in the workforce; and

(3) to encourage a recipient or subrecipient implementing a local or other geographical or economic hiring preference pursuant to subsection (a)(1) to establish, in coordination with nonprofit organizations that represent employees, outreach and support programs that increase diversity within the workforce, including expanded participation from individuals described in subparagraphs (A) through (C) of paragraph (2).

(c) MODEL PLAN.—Not later than 1 year after the date of submission of the report under subsection (b), the Secretary shall establish, and publish on the website of the Department, a model plan for use by States, units of local government, and private sector entities to address the issues described in that subsection.

SEC. 25020. TRANSPORTATION WORKFORCE DEVELOPMENT.

(a) ASSESSMENT.—The Secretary shall enter into an arrangement with the National Academy of Sciences under which the National Academy shall develop and submit to the Secretary a workforce needs assessment that—

(1) addresses—

(A) the education and recruitment of technical workers for the intelligent transportation technologies and systems industry;

(B) the development of a workforce skilled in various types of intelligent transportation technologies, components, infrastructure, and equipment, including with respect to—

(i) installation;

(ii) maintenance;

(iii) manufacturing;

(iv) operations, including data analysis and review; and

(v) cybersecurity; and

(C) barriers to employment in the intelligent transportation technologies and systems industry for—

(i) individuals who are former offenders (as defined in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102));

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(ii) individuals with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)); and

(iii) individuals that represent populations that are traditionally underrepresented in the workforce; and

(2) includes recommendations relating to the issues described in paragraph (1).

(b) WORKING GROUP.—

(1) ESTABLISHMENT.—The Secretary shall establish a working group, to be composed of—

(A) the Secretary of Energy;

(B) the Secretary of Labor; and

(C) the heads of such other Federal agencies as the Secretary determines to be necessary.

(2) IMPLEMENTATION PLAN.—

(A) IN GENERAL.—The working group established under paragraph (1) shall develop an intelligent transportation technologies and systems industry workforce development implantation plan.

(B) REQUIREMENTS.—The implementation plan under subparagraph (A) shall address any issues and recommendations included in the needs assessment under subsection (a), taking into consideration a whole-of-government approach with respect to—

(i) using registered apprenticeship and preapprenticeship programs; and

(ii) re-skilling workers who may be interested in working within the intelligent transportation technologies and systems industry.

(3) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of receipt of the needs assessment under subsection (a), the Secretary shall submit to Congress the implementation plan developed under paragraph (2).

(4) TERMINATION.—The working group established under paragraph (1) shall terminate on the date on which the implementation plan developed under paragraph (2) is submitted to Congress under paragraph (3).

(c) TRANSPORTATION WORKFORCE OUTREACH PROGRAM.—

(1) IN GENERAL.—Subchapter I of chapter 55 of title 49, United States Code (as amended by section 25013(a)), is amended by adding at the end the following:

"§ 5507. Transportation workforce outreach program

"(a) IN GENERAL.—The Secretary of Transportation (referred to in this section as the 'Secretary') shall establish and administer a transportation workforce outreach program, under which the Secretary shall carry out a series of public service announcement campaigns during each of fiscal years 2022 through 2026.

"(b) PURPOSES.—The purpose of the campaigns carried out under the program under this section shall be—

"(1) to increase awareness of career opportunities in the transportation sector, including aviation pilots, safety inspectors, mechanics and technicians, air traffic controllers, flight attendants, truck and bus drivers, engineers, transit workers, railroad workers, and other transportation professionals; and

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"(2) to target awareness of professional opportunities in the transportation sector to diverse segments of the population, including with respect to race, sex, ethnicity, ability (including physical and mental ability), veteran status, and socioeconomic status.

"(c) ADVERTISING.—The Secretary may use, or authorize the use of, amounts made available to carry out the program under this section for the development, production, and use of broadcast, digital, and print media advertising and outreach in carrying out a campaign under this section.

"(d) FUNDING.—The Secretary may use to carry out this section any amounts otherwise made available to the Secretary, not to exceed $5,000,000, for each of fiscal years 2022 through 2026.".

(2) CLERICAL AMENDMENT.—The analysis for subchapter I of chapter 55 of title 49, United States Code (as amended by section 25013(b)), is amended by adding at the end the following:

"5507. Transportation workforce outreach program.".

SEC. 25021. INTERMODAL TRANSPORTATION ADVISORY BOARD REPEAL.

(a) IN GENERAL.—Section 5502 of title 49, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The analysis for subchapter I of chapter 55 of title 49, United States Code, is amended by striking the item relating to section 5502.

SEC. 25022. GAO CYBERSECURITY RECOMMENDATIONS.

(a) CYBERSECURITY RISK MANAGEMENT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall implement the recommendation for the Department made by the Comptroller General of the United States in the report entitled "Cybersecurity: Agencies Need to Fully Establish Risk Management Programs and Address Challenges", numbered GAO–19–384, and dated July 2019—

(1) by developing a cybersecurity risk management strategy for the systems and information of the Department;

(2) by updating policies to address an organization-wide risk assessment; and

(3) by updating the processes for coordination between cybersecurity risk management functions and enterprise risk management functions.

(b) WORK ROLES.—Not later than 3 years after the date of enactment of this Act, the Secretary shall implement the recommendation of the Comptroller General of the United States in the report entitled "Cybersecurity Workforce: Agencies Need to Accurately Categorize Positions to Effectively Identify Critical Staffing Needs", numbered GAO–19–144, and dated March 2019, by—

(1) reviewing positions in the Department; and

(2) assigning appropriate work roles in accordance with the National Initiative for Cybersecurity Education Cybersecurity Workforce Framework.

(c) GAO REVIEW.—

(1) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Commerce, Science,

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and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that examines the approach of the Department to managing cybersecurity for the systems and information of the Department.

(2) CONTENTS.—The report under paragraph (1) shall include an evaluation of—

(A) the roles, responsibilities, and reporting relationships of the senior officials of the Department with respect to cybersecurity at the components of the Department;

(B) the extent to which officials of the Department—

(i) establish requirements for, share information with, provide resources to, and monitor the performance of managers with respect to cybersecurity within the components of the Department; and

(ii) hold managers accountable for cybersecurity within the components of the Department; and

(C) other aspects of cybersecurity, as the Comptroller General of the United States determines to be appropriate.

SEC. 25023. VOLPE OVERSIGHT.

(a) FINANCIAL MANAGEMENT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall implement the recommendations of the Inspector General of the Department included in the report entitled "DOT Needs to Strengthen Its Oversight of IAAs With Volpe" and dated September 30, 2019, to improve planning, financial management, and the sharing of performance information with respect to intraagency agreements with the John A. Volpe National Transportation Systems Center (referred to in this section as the "Volpe Center").

(b) GAO REVIEW.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that examines the surface transportation activities at the Volpe Center.

(2) CONTENTS.—The report under paragraph (1) shall include an evaluation of—

(A) the amount of Department funding provided to the Volpe Center, as compared to other Federal and non-Federal research partners;

(B) the process used by the Department to determine whether to work with the Volpe Center, as compared to any other Federal or non-Federal research partner;

(C) the extent to which the Department is collaborating with the Volpe Center to address research needs relating to emerging issues; and

(D) whether the operation of the Volpe Center is duplicative of other public or private sector efforts.

SEC. 25024. MODIFICATIONS TO GRANT PROGRAM.

Section 1906 of the SAFETEA–LU (23 U.S.C. 402 note; Public Law 109–59) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "and" at the end;

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(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) developing and implementing programs, public outreach, and training to reduce the impact of traffic stops described in subsection (a)(1).";

(2) by striking subsection (c) and inserting the following:

"(c) MAXIMUM AMOUNT.—The total amount provided to a State under this section in any fiscal year may not exceed—

"(1) for a State described in subsection (a)(1), 10 percent of the amount made available to carry out this section in that fiscal year; and

"(2) for a State described in subsection (a)(2), 5 percent of the amount made available to carry out this section in that fiscal year."; and

(3) in subsection (d)—

(A) by striking "$7,500,000 for each of fiscal years 2017 through 2020" and inserting "$11,500,000 for each fiscal year";

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

"(3) TECHNICAL ASSISTANCE.—The Secretary may allocate not more than 10 percent of the amount made available to carry out this section in a fiscal year to provide technical assistance to States to carry out activities under this section.".

SEC. 25025. DRUG-IMPAIRED DRIVING DATA COLLECTION.

Not later than 2 years after the date of enactment of this Act, the Secretary, in consultation with the heads of appropriate Federal agencies, State highway safety offices, State toxicologists, traffic safety advocates, and other interested parties, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that, in accordance with the document entitled "Recommendations for Toxicological Investigations of Drug-Impaired Driving and Motor Vehicle Fatalities—2017 Update" (and subsequent updates to that document)—

(1) identifies any barriers that States encounter in submitting alcohol and drug toxicology results to the Fatality Analysis Reporting System;

(2) provides recommendations on how to address the barriers identified pursuant to paragraph (1); and

(3) describes steps that the Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, will take to assist States in improving—

(A) toxicology testing in cases of motor vehicle crashes; and

(B) the reporting of alcohol and drug toxicology results in cases of motor vehicle crashes.

SEC. 25026. REPORT ON MARIJUANA RESEARCH.

(a) DEFINITION OF MARIJUANA.—In this section, the term "marijuana" has the meaning given the term in section 4008(d) of the FAST Act (Public Law 114–94; 129 Stat. 1511).

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary, in consultation with the Attorney General and the Secretary of Health and Human Services, shall submit

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to the Committees on Commerce, Science, and Transportation and the Judiciary of the Senate and the Committees on Transportation and Infrastructure and the Judiciary of the House of Representatives, and make publicly available on the website of the Department, a report that—

(1) describes methods for, and contains recommendations with respect to—

(A) increasing and improving, for scientific researchers studying impairment while driving under the influence of marijuana, access to samples and strains of marijuana and products containing marijuana that are lawfully available to patients or consumers in a State on a retail basis;

(B) establishing a national clearinghouse to collect and distribute samples and strains of marijuana for scientific research that includes marijuana and products containing marijuana lawfully available to patients or consumers in a State on a retail basis; and

(C) facilitating, for scientific researchers located in States that have not legalized marijuana for medical or recreational use, access to samples and strains of marijuana and products containing marijuana from the clearinghouse described in subparagraph (B) for purposes of research on marijuana-impaired driving; and

(2) identifies, and contains recommendations for addressing, Federal statutory and regulatory barriers to—

(A) the conduct of scientific research on marijuana-impaired driving; and

(B) the establishment of a national clearinghouse for purposes of facilitating research on marijuana-impaired driving.

SEC. 25027. GAO STUDY ON IMPROVING THE EFFICIENCY OF TRAFFIC SYSTEMS.

Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall carry out, and submit to Congress a report describing the results of, a study on the potential societal benefits of improving the efficiency of traffic systems.

TITLE VI—HAZARDOUS MATERIALS

SEC. 26001. AUTHORIZATION OF APPROPRIATIONS.

Section 5128 of title 49, United States Code, is amended to read as follows:

"§ 5128. Authorization of appropriations

"(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119)—

"(1) $67,000,000 for fiscal year 2022;
"(2) $68,000,000 for fiscal year 2023;
"(3) $69,000,000 for fiscal year 2024;
"(4) $70,000,000 for fiscal year 2025; and
"(5) $71,000,000 for fiscal year 2026.

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"(b) HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS FUND.—From the Hazardous Materials Preparedness Fund established under section 5116(h), the Secretary may expend, for each of fiscal years 2022 through 2026—

"(1) $39,050,000 to carry out section 5116(a);

"(2) $150,000 to carry out section 5116(e);

"(3) $625,000 to publish and distribute the Emergency Response Guidebook under section 5116(h)(3); and

"(4) $2,000,000 to carry out section 5116(i).

"(c) HAZARDOUS MATERIALS TRAINING GRANTS.—From the Hazardous Materials Emergency Preparedness Fund established pursuant to section 5116(h), the Secretary may expend $5,000,000 for each of fiscal years 2022 through 2026 to carry out section 5107(e).

"(d) COMMUNITY SAFETY GRANTS.—Of the amounts made available under subsection (a) to carry out this chapter, the Secretary shall withhold $4,000,000 for each of fiscal years 2022 through 2026 to carry out section 5107(i).

"(e) CREDITS TO APPROPRIATIONS.—

"(1) EXPENSES.—In addition to amounts otherwise made available to carry out this chapter, the Secretary may credit amounts received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, Indian tribe, authority or entity.

"(2) AVAILABILITY OF AMOUNTS.—Amounts made available under this section shall remain available until expended.".

SEC. 26002. ASSISTANCE FOR LOCAL EMERGENCY RESPONSE TRAINING GRANT PROGRAM.

Section 5116 of title 49, United States Code, is amended—

(1) in subsection (j), in the second sentence of the matter preceding paragraph (1), by striking "subsection (i)" and inserting "subsections (i) and (j)";

(2) by redesignating subsection (j) as subsection (k); and

(3) by inserting after subsection (i) the following:

"(j) ALERT GRANT PROGRAM.—

"(1) ASSISTANCE FOR LOCAL EMERGENCY RESPONSE TRAINING.—The Secretary shall establish a grant program to make grants to eligible entities described in paragraph (2)—

"(A) to develop a hazardous materials response training curriculum for emergency responders, including response activities for the transportation of crude oil, ethanol, and other flammable liquids by rail, consistent with the standards of the National Fire Protection Association; and

"(B) to make the training described in subparagraph (A) available in an electronic format.

"(2) ELIGIBLE ENTITIES.—An eligible entity referred to in paragraph (1) is a nonprofit organization that—

"(A) represents first responders or public officials responsible for coordinating disaster response; and

"(B) is able to provide direct or web-based training to individuals responsible for responding to accidents and incidents involving hazardous materials.

"(3) FUNDING.—

"(A) IN GENERAL.—To carry out the grant program under paragraph (1), the Secretary may use, for each fiscal year, any amounts recovered during such fiscal year from

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grants awarded under this section during a prior fiscal year.

"(B) OTHER HAZARDOUS MATERIAL TRAINING ACTIVITIES.—For each fiscal year, after providing grants under paragraph (1), if funds remain available, the Secretary may use the amounts described in subparagraph (A)—

"(i) to make grants under—

"(I) subsection (a)(1)(C);

"(II) subsection (i); and

"(III) section 5107(e);

"(ii) to conduct monitoring and provide technical assistance under subsection (e);

"(iii) to publish and distribute the emergency response guide referred to in subsection (h)(3); and

"(iv) to pay administrative costs in accordance with subsection (h)(4).

"(C) OBLIGATION LIMITATION.—Notwithstanding any other provision of law, for each fiscal year, amounts described in subparagraph (A) shall not be included in the obligation limitation for the Hazardous Materials Emergency Preparedness grant program for that fiscal year.".

SEC. 26003. REAL-TIME EMERGENCY RESPONSE INFORMATION.

Section 7302 of the FAST Act (49 U.S.C. 20103 note; Public Law 114–94) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "1 year after the date of enactment of this Act" and inserting "December 5, 2022";

(B) in paragraph (1), by amending subparagraph (B) to read as follows:

"(B) to provide the electronic train consist information described in subparagraph (A) to authorized State and local first responders, emergency response officials, and law enforcement personnel that are involved in the response to, or investigation of, an accident, incident, or public health or safety emergency involving the rail transportation of hazardous materials;";

(C) by striking paragraph (2);

(D) by redesignating paragraphs (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), and (6), respectively; and

(E) in paragraph (3), as redesignated, by striking "paragraph (3)" and inserting "paragraph (2)";

(2) in subsection (b)—

(A) by striking paragraphs (1) and (4); and

(B) by redesignating paragraphs (2), (3), (5), (6), and (7) as paragraphs (1), (2), (3), (4), and (5), respectively; and

(3) in subsection (c), by striking ", as described in subsection (a)(1)(B),".

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TITLE VII—GENERAL PROVISIONS

SEC. 27001. PERFORMANCE MEASUREMENT, TRANSPARENCY, AND ACCOUNTABILITY.

For each grant awarded under this Act, or an amendment made by this Act, the Secretary may—

(1) develop metrics to assess the effectiveness of the activities funded by the grant;

(2) establish standards for the performance of the activities funded by the grant that are based on the metrics developed under paragraph (1); and

(3) not later than the date that is 4 years after the date of the initial award of the grant and every 2 years thereafter until the date on which Federal financial assistance is discontinued for the applicable activity, conduct an assessment of the activity funded by the grant to confirm whether the performance is meeting the standards for performance established under paragraph (2).

SEC. 27002. COORDINATION REGARDING FORCED LABOR.

The Secretary shall 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.

(a) AUDIT AND REPORT.—Not later than 18 months after the date of enactment of this Act, the Assistant Secretary of Commerce for Communications and Information and the Secretary shall jointly—

(1) conduct an audit of the electromagnetic spectrum that is assigned or otherwise allocated to the Department as of the date of the audit; and

(2) submit to Congress, and make available to each Member of Congress upon request, a report containing the results of the audit conducted under paragraph (1).

(b) CONTENTS OF REPORT.—The Assistant Secretary of Commerce for Communications and Information and the Secretary shall include in the report submitted under subsection (a)(2), with respect to the electromagnetic spectrum that is assigned or otherwise allocated to the Department as of the date of the audit—

(1) each particular band of spectrum being used by the Department;

(2) a description of each purpose for which a particular band described in paragraph (1) is being used, and how much of the band is being used for that purpose;

(3) the State or other geographic area in which a particular band described in paragraph (1) is assigned or allocated for use;

(4) whether a particular band described in paragraph (1) is used exclusively by the Department or shared with another Federal entity or a non-Federal entity; and

(5) any portion of the spectrum that is not being used by the Department.

(c) FORM OF REPORT.—The report required under subsection (a)(2) shall be submitted in unclassified form but may include a classified annex.

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SEC. 27004. STUDY AND REPORTS ON THE TRAVEL AND TOURISM ACTIVITIES OF THE DEPARTMENT.

(a) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study (referred to in this section as the "study") on the travel and tourism activities within the Department.

(2) REQUIREMENT.—The study shall evaluate how the Department evaluates travel and tourism needs or criteria in considering applications for grants under the grant programs of the Department.

(b) REPORT OF THE SECRETARY.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study, which shall include—

(1) an identification of how the Department currently evaluates travel and tourism needs or criteria in considering applications for grants under the grant programs of the Department;

(2) a description of any actions that the Department will take to improve the evaluation of tourism- and travel-related criteria in considering applications for grants under those grant programs; and

(3) recommendations as to any statutory or regulatory changes that may be required to enhance the consideration by the Department of travel and tourism needs or criteria in considering applications for grants under those grant programs.

(c) GAO ASSESSMENT AND REPORT.—

(1) ASSESSMENT.—The Comptroller General of the United States shall conduct an assessment of the existing resources of the Department used to conduct travel- and tourism-related activities, including the consideration of travel and tourism needs or criteria in considering applications for grants under the grant programs of the Department, in order to identify—

(A) any resources needed by the Department; and

(B) any barriers to carrying out those activities.

(2) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the assessment conducted under paragraph (1), which shall include—

(A) recommendations for improving the evaluation and consideration by the Department of travel and tourism with respect to the discretionary grant programs of the Department;

(B) an assessment of the resources needed to carry out the tourism- and travel-related activities of the Department;

(C) an assessment of any barriers to carrying out activities relating to travel and tourism; and

(D) recommendations for improving the ability of the Department to carry out activities relating to travel and

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tourism, which may include proposed statutory or regulatory changes that may be needed to facilitate those activities.

TITLE VIII—SPORT FISH RESTORATION AND RECREATIONAL BOATING SAFETY

SEC. 28001. SPORT FISH RESTORATION AND RECREATIONAL BOATING SAFETY.

(a) DIVISION OF ANNUAL APPROPRIATIONS.—

(1) IN GENERAL.—Section 4 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c) is amended—

(A) in subsection (a), by striking "2021" and inserting "2026";

(B) in subsection (b)—

(i) in paragraph (1)—

(I) in subparagraph (A), by striking "2021" and inserting "2026"; and

(II) by striking subparagraph (B) and inserting the following:

"(B) AVAILABLE AMOUNTS.—The available amount referred to in subparagraph (A) is—

"(i) for the fiscal year that includes the date of enactment of the Surface Transportation Reauthorization Act of 2021, the sum obtained by adding—

"(I) the available amount specified in this subparagraph for the preceding fiscal year; and

"(II) $979,500; and

"(ii) for each fiscal year thereafter, the sum obtained by adding—

"(I) the available amount specified in this subparagraph for the preceding fiscal year; and

"(II) the product obtained by multiplying—

"(aa) the available amount specified in this subparagraph for the preceding fiscal year; and

"(bb) the change, relative to the preceding fiscal year, in the Consumer Price Index for All Urban Consumers published by the Department of Labor."; and

(ii) in paragraph (2)—

(I) in subparagraph (A), by striking "2016 through 2021" and inserting "2022 through 2026"; and

(II) by striking subparagraph (B) and inserting the following:

"(B) AVAILABLE AMOUNTS.—The available amount referred to in subparagraph (A) is—

"(i) for fiscal year 2022, $12,786,434; and

"(ii) for fiscal year 2023 and each fiscal year thereafter, the sum obtained by adding—

"(I) the available amount specified in this subparagraph for the preceding fiscal year; and

"(II) the product obtained by multiplying—

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"(aa) the available amount specified in this subparagraph for the preceding fiscal year; and

"(bb) the change, relative to the preceding fiscal year, in the Consumer Price Index for All Urban Consumers published by the Department of Labor."; and

(C) in subsection (e)(2), by striking "$900,000" and inserting "$1,300,000".

(2) ADMINISTRATION.—Section 9(a) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777h(a)) is amended—

(A) by striking paragraphs (1) and (2) and inserting the following:

"(1) personnel costs of employees for the work hours of each employee spent directly administering this Act, as those hours are certified by the supervisor of the employee;";

(B) by redesignating paragraphs (3) through (12) as paragraphs (2) through (11), respectively;

(C) in paragraph (2) (as so redesignated), by striking "paragraphs (1) and (2)" and inserting "paragraph (1)";

(D) in paragraph (4)(B) (as so redesignated), by striking "full-time equivalent employee authorized under paragraphs (1) and (2)" and inserting "employee authorized under paragraph (1)";

(E) in paragraph (8)(A) (as so redesignated), by striking "on a full-time basis"; and

(F) in paragraph (10) (as so redesignated)—

(i) by inserting "or part-time" after "full-time"; and

(ii) by inserting ", subject to the condition that the percentage of the relocation expenses paid with funds made available pursuant to this Act may not exceed the percentage of the work hours of the employee that are spent administering this Act" after "incurred".

(3) OTHER ACTIVITIES.—Section 14(e) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777m(e)) is amended by adding at the end the following:

"(3) A portion, as determined by the Sport Fishing and Boating Partnership Council, of funds disbursed for the purposes described in paragraph (2) but remaining unobligated as of October 1, 2021, shall be used to study the impact of derelict vessels and identify recyclable solutions for recreational vessels.".

(4) RECREATIONAL BOATING SAFETY.—Section 13107(c)(2) of title 46, United States Code, is amended by striking "No funds available" and inserting "On or after October 1, 2024, no funds available".

(b) WILDLIFE RESTORATION FUND ADMINISTRATION.—

(1) ALLOCATION AND APPORTIONMENT OF AVAILABLE AMOUNTS.—Section 4(a) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669c(a)) is amended—

(A) in paragraph (1), by striking subparagraph (B) and inserting the following:

"(B) AVAILABLE AMOUNTS.—The available amount referred to in subparagraph (A) is—

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"(i) for the fiscal year that includes the date of enactment of the Surface Transportation Reauthorization Act of 2021, the sum obtained by adding—

"(I) the available amount specified in this subparagraph for the preceding fiscal year; and

"(II) $979,500; and

"(ii) for each fiscal year thereafter, the sum obtained by adding—

"(I) the available amount specified in this subparagraph for the preceding fiscal year; and

"(II) the product obtained by multiplying—

"(aa) the available amount specified in this subparagraph for the preceding fiscal year; and

"(bb) the change, relative to the preceding fiscal year, in the Consumer Price Index for All Urban Consumers published by the Department of Labor."; and

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting "subsequent" before "fiscal year."; and

(ii) by striking subparagraph (B) and inserting the following:

"(B) APPORTIONMENT OF UNOBLIGATED AMOUNTS.—

"(i) IN GENERAL.—Not later than 60 days after the end of a fiscal year, the Secretary of the Interior shall apportion among the States any of the available amount under paragraph (1) that remained available for obligation pursuant to subparagraph (A) during that fiscal year and remains unobligated at the end of that fiscal year.

"(ii) REQUIREMENT.—The available amount apportioned under clause (i) shall be apportioned on the same basis and in the same manner as other amounts made available under this Act were apportioned among the States for the fiscal year in which the amount was originally made available.".

(2) AUTHORIZED EXPENSES FOR ADMINISTRATION.—Section 9(a) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669h(a)) is amended—

(A) by striking paragraphs (1) and (2) and inserting the following:

"(1) personnel costs of employees for the work hours of each employee spent directly administering this Act, as those hours are certified by the supervisor of the employee;";

(B) by redesignating paragraphs (3) through (12) as paragraphs (2) through (11), respectively;

(C) in paragraph (2) (as so redesignated), by striking "paragraphs (1) and (2)" and inserting "paragraph (1)";

(D) in paragraph (4)(B) (as so redesignated), by striking "full-time equivalent employee authorized under paragraphs (1) and (2)" and inserting "employee authorized under paragraph (1)";

(E) in paragraph (8)(A) (as so redesignated), by striking "on a full-time basis"; and

(F) in paragraph (10) (as so redesignated)—

(i) by inserting "or part-time" after "full-time"; and

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(ii) by inserting ", subject to the condition that the percentage of the relocation expenses paid with funds made available pursuant to this Act may not exceed the percentage of the work hours of the employee that are spent administering this Act" after "incurred".

(c) RECREATIONAL BOATING ACCESS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Sport Fishing and Boating Partnership Council, the Committee on Natural Resources and the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate a report that, to the extent practicable, given available data, shall document—

(A) the use of nonmotorized vessels in each State and how the increased use of nonmotorized vessels is impacting motorized and nonmotorized vessel access;

(B) user conflicts at waterway access points; and

(C) the use of—

(i) Sport Fish Restoration Program funds to improve nonmotorized access at waterway entry points and the reasons for providing that access; and

(ii) Recreational Boating Safety Program funds for nonmotorized boating safety programs.

(2) CONSULTATION.—The Comptroller General of the United States shall consult with the Sport Fishing and Boating Partnership Council and the National Boating Safety Advisory Council on study design, scope, and priorities for the report under paragraph (1).

(d) SPORT FISHING AND BOATING PARTNERSHIP COUNCIL.—

(1) IN GENERAL.—The Sport Fishing and Boating Partnership Council established by the Secretary of the Interior shall be an advisory committee of the Department of the Interior and the Department of Commerce subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(2) FACA.— The Secretary of the Interior and the Secretary of Commerce shall jointly carry out the requirements of the Federal Advisory Committee Act (5 U.S.C. App.) with respect to the Sport Fishing and Boating Partnership Council described in paragraph (1).

(3) EFFECTIVE DATE.—This subsection shall take effect on January 1, 2023.

DIVISION C—TRANSIT

SEC. 30001. DEFINITIONS.

(a) IN GENERAL.—Section 5302 of title 49, United States Code, is amended—

(1) by redesignating paragraphs (1) through (24) as paragraphs (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24), and (25), respectively; and

(2) by inserting before paragraph (2) (as so redesignated) the following:

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"(1) ASSAULT ON A TRANSIT WORKER.—The term 'assault on a transit worker' means a circumstance in which an individual knowingly, without lawful authority or permission, and with intent to endanger the safety of any individual, or with a reckless disregard for the safety of human life, interferes with, disables, or incapacitates a transit worker while the transit worker is performing the duties of the transit worker."; and

(3) in subparagraph (G) of paragraph (4) (as so redesignated)—

(A) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively;

(B) by inserting after clause (iii) the following:

"(iv) provides that if equipment to fuel privately owned zero-emission passenger vehicles is installed, the recipient of assistance under this chapter shall collect fees from users of the equipment in order to recover the costs of construction, maintenance, and operation of the equipment;";

(C) in clause (vi) (as so redesignated)—

(i) in subclause (XIII), by striking "and" at the end;

(ii) in subclause (XIV), by adding "and" after the semicolon; and

(iii) by adding at the end the following:

"(XV) technology to fuel a zero-emission vehicle;".

(b) CONFORMING AMENDMENTS.—

(1) Section 601(a)(12)(E) of title 23, United States Code, is amended by striking "section 5302(3)(G)(v)" and inserting "section 5302(4)(G)(v)".

(2) Section 5323(e)(3) of title 49, United States Code, is amended by striking "section 5302(3)(J)" and inserting "section 5302(4)(J)".

(3) Section 5336(e) of title 49, United States Code, is amended by striking ", as defined in section 5302(4)".

(4) Section 28501(4) of title 49, United States Code, is amended by striking "section 5302(a)(6)" and inserting "section 5302".

SEC. 30002. METROPOLITAN TRANSPORTATION PLANNING.

(a) IN GENERAL.—Section 5303 of title 49, United States Code, is amended—

(1) in subsection (a)(1), by inserting "and better connect housing and employment" after "urbanized areas";

(2) in subsection (g)(3)(A), by inserting "housing," after "economic development,";

(3) in subsection (h)(1)(E), by inserting ", housing," after "growth";

(4) in subsection (i)—

(A) in paragraph (4)(B)—

(i) by redesignating clauses (iii) through (vi) as clauses (iv) through (vii), respectively; and

(ii) by inserting after clause (ii) the following:

"(iii) assumed distribution of population and housing;"; and

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(B) in paragraph (6)(A), by inserting "affordable housing organizations," after "disabled,"; and

(5) in subsection (k)—

(A) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) HOUSING COORDINATION PROCESS.—

"(A) IN GENERAL.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section may address the integration of housing, transportation, and economic development strategies through a process that provides for effective integration, based on a cooperatively developed and implemented strategy, of new and existing transportation facilities eligible for funding under this chapter and title 23.

"(B) COORDINATION IN INTEGRATED PLANNING PROCESS.—In carrying out the process described in subparagraph (A), a metropolitan planning organization may—

"(i) consult with—

"(I) State and local entities responsible for land use, economic development, housing, management of road networks, or public transportation; and

"(II) other appropriate public or private entities; and

"(ii) coordinate, to the extent practicable, with applicable State and local entities to align the goals of the process with the goals of any comprehensive housing affordability strategies established within the metropolitan planning area pursuant to section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) and plans developed under section 5A of the United States Housing Act of 1937 (42 U.S.C. 1437c–1).

"(C) HOUSING COORDINATION PLAN.—

"(i) IN GENERAL.—A metropolitan planning organization serving a transportation management area may develop a housing coordination plan that includes projects and strategies that may be considered in the metropolitan transportation plan of the metropolitan planning organization.

"(ii) CONTENTS.—A plan described in clause (i) may—

"(I) develop regional goals for the integration of housing, transportation, and economic development strategies to—

"(aa) better connect housing and employment while mitigating commuting times;

"(bb) align transportation improvements with housing needs, such as housing supply shortages, and proposed housing development;

"(cc) align planning for housing and transportation to address needs in relationship to household incomes within the metropolitan planning area;

"(dd) expand housing and economic development within the catchment areas of

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existing transportation facilities and public transportation services when appropriate, including higher-density development, as locally determined;

"(ee) manage effects of growth of vehicle miles traveled experienced in the metropolitan planning area related to housing development and economic development;

"(ff) increase share of households with sufficient and affordable access to the transportation networks of the metropolitan planning area;

"(II) identify the location of existing and planned housing and employment, and transportation options that connect housing and employment; and

"(III) include a comparison of transportation plans to land use management plans, including zoning plans, that may affect road use, public transportation ridership and housing development.".

(b) ADDITIONAL CONSIDERATION AND COORDINATION.—Section 5303 of title 49, United States Code, is amended—

(1) in subsection (d)—

(A) in paragraph (3), by adding at the end the following:

"(D) CONSIDERATIONS.—In designating officials or representatives under paragraph (2) for the first time, subject to the bylaws or enabling statute of the metropolitan planning organization, the metropolitan planning organization shall consider the equitable and proportional representation of the population of the metropolitan planning area."; and

(B) in paragraph (7)—

(i) by striking "an existing metropolitan planning area" and inserting "an existing urbanized area (as defined by the Bureau of the Census)"; and

(ii) by striking "the existing metropolitan planning area" and inserting "the area";

(2) in subsection (g)—

(A) in paragraph (1), by striking "a metropolitan area" and inserting "an urbanized area (as defined by the Bureau of the Census)"; and

(B) by adding at the end the following:

"(4) COORDINATION BETWEEN MPOS.—If more than 1 metropolitan planning organization is designated within an urbanized area (as defined by the Bureau of the Census) under subsection (d)(7), the metropolitan planning organizations designated within the area shall ensure, to the maximum extent practicable, the consistency of any data used in the planning process, including information used in forecasting travel demand.

"(5) SAVINGS CLAUSE.—Nothing in this subsection requires metropolitan planning organizations designated within a single urbanized area to jointly develop planning documents, including a unified long-range transportation plan or unified TIP.";

(3) in subsection (i)(6), by adding at the end the following:

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"(D) USE OF TECHNOLOGY.—A metropolitan planning organization may use social media and other web-based tools—

"(i) to further encourage public participation; and

"(ii) to solicit public feedback during the transportation planning process."; and

(4) in subsection (p), by striking "section 104(b)(5)" and inserting "section 104(b)(6)".

SEC. 30003. STATEWIDE AND NONMETROPOLITAN TRANSPORTATION PLANNING.

(a) TECHNICAL AMENDMENTS.—Section 5304 of title 49, United States Code, is amended—

(1) in subsection (e), in the matter preceding paragraph (1), by striking the quotation marks before "In"; and

(2) in subsection (i), by striking "this this" and inserting "this".

(b) USE OF TECHNOLOGY.—Section 5304(f)(3) of title 49, United States Code, is amended by adding at the end the following:

"(C) USE OF TECHNOLOGY.—A State may use social media and other web-based tools—

"(i) to further encourage public participation; and

"(ii) to solicit public feedback during the transportation planning process.".

SEC. 30004. PLANNING PROGRAMS.

Section 5305 of title 49, United States Code, is amended—

(1) in subsection (e)(1)(A), in the matter preceding clause (i), by striking "this section and section" and inserting "this section and sections"; and

(2) by striking subsection (f) and inserting the following:

"(f) GOVERNMENT SHARE OF COSTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Government share of the cost of an activity funded using amounts made available under this section may not exceed 80 percent of the cost of the activity unless the Secretary determines that it is in the interests of the Government—

"(A) not to require a State or local match; or

"(B) to allow a Government share greater than 80 percent.

"(2) CERTAIN ACTIVITIES.—

"(A) IN GENERAL.—The Government share of the cost of an activity funded using amounts made available under this section shall be not less than 90 percent for an activity that assists parts of an urbanized area or rural area with lower population density or lower average income levels compared to—

"(i) the applicable urbanized area;

"(ii) the applicable rural area;

"(iii) an adjoining urbanized area; or

"(iv) an adjoining rural area.

"(B) REPORT.—A State or metropolitan planning organization that carries out an activity described in subparagraph (A) with an increased Government share described in that subparagraph shall report to the Secretary, in a form as determined by the Secretary, how the increased Government share for transportation planning activities benefits commuting and other essential

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travel in parts of the applicable urbanized area or rural area described in subparagraph (A) with lower population density or lower average income levels.".

SEC. 30005. FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS.

(a) IN GENERAL.—Section 5309 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (6);

(B) by redesignating paragraph (7) as paragraph (6); and

(C) in paragraph (6) (as so redesignated)—

(i) in subparagraph (A), by striking "$100,000,000" and inserting "$150,000,000"; and

(ii) in subparagraph (B), by striking "$300,000,000" and inserting "$400,000,000";

(2) in subsection (c)(1)—

(A) in subparagraph (A), by striking "and" at the end;

(B) in subparagraph (B)(iii), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(C) the applicant has made progress toward meeting the performance targets in section 5326(c)(2).";

(3) in subsection (e)(2)(A)(iii)(II), by striking "the next 5 years" and inserting "the next 10 years, without regard to any temporary measures employed by the applicant expected to increase short-term capacity within the next 10 years";

(4) in subsection (g)—

(A) in paragraph (3)(A), by striking "exceed" and all that follows through "50 percent" and inserting "exceed 50 percent";

(B) by redesignating paragraph (7) as paragraph (8); and

(C) by inserting after paragraph (6) the following:

"(7) PROJECT RE-ENTRY.—In carrying out ratings and evaluations under this subsection, the Secretary shall provide full and fair consideration to projects that seek an updated rating after a period of inactivity following an earlier rating and evaluation.";

(5) in subsection (i), by striking paragraphs (1) through (8) and inserting the following:

"(1) FUTURE BUNDLING.—

"(A) DEFINITION.—In this paragraph, the term 'future bundling request' means a letter described in subparagraph (B) that requests future funding for additional projects.

"(B) REQUEST.—When an applicant submits a letter to the Secretary requesting entry of a project into the project development phase under subsection (d)(1)(A)(i)(I), (e)(1)(A)(i)(I), or (h)(2)(A)(i)(I), the applicant may include a description of other projects for consideration for future funding under this section. An applicant shall include in the request the amount of funding requested under this section for each additional project and the estimated capital cost of each project.

"(C) READINESS.—Other projects included in the request shall be ready to enter the project development phase under subsection (d)(1)(A), (e)(1)(A), or (h)(2)(A),

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within 5 years of the initial project submitted as part of the request.

"(D) PLANNING.—Projects in the future bundling request shall be included in the metropolitan transportation plan in accordance with section 5303(i).

"(E) PROJECT SPONSOR.—The applicant that submits a future bundling request shall be the project sponsor for each project included in the request.

"(F) PROGRAM AND PROJECT SHARE.—A future bundling request submitted under this paragraph shall include a proposed share of each of the request's projects that is consistent with the requirements of subsections (k)(2)(C)(ii) or (h)(7), as applicable.

"(G) BENEFITS.—The bundling of projects under this subsection—

"(i) shall enhance, or increase the capacity of—

"(I) the total transportation system of the applicant; or

"(II) the transportation system of the region the applicant serves (which, in the case of a State whose request addresses a single region, means that region); and

"(ii) shall—

"(I) streamline procurements for the applicant; or

"(II) enable time or cost savings for the projects.

"(H) EVALUATION.—Each project submitted for consideration for funding in a future bundling request shall be subject to the applicable evaluation criteria under this section for the project type, including demonstrating the availability of local resources to recapitalize, maintain, and operate the overall existing and proposed public transportation system pursuant to subsection (f)(1)(C).

"(I) LETTER OF INTENT.—

"(i) IN GENERAL.—Upon entering into a grant agreement for the initial project for which an applicant submits a future bundling request, the Secretary may issue a letter of intent to the applicant that announces an intention to obligate, for 1 or more additional projects included in the request, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the additional project or projects in the future bundling. Such letter may include a condition that the project or projects must meet the evaluation criteria in this subsection before a grant agreement can be executed.

"(ii) AMOUNT.—The amount that the Secretary announces an intention to obligate for an additional project in the future bundling request through a letter of intent issued under clause (i) shall be sufficient to complete at least an operable segment of the project.

"(iii) TREATMENT.—The issuance of a letter of intent under clause (i) shall not be deemed to be an obligation under sections 1108(c), 1501, and 1502(a) of title 31 or an administrative commitment.

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"(2) IMMEDIATE BUNDLING.—

"(A) DEFINITION.—In this paragraph, the term 'immediate bundling request' means a letter described in subparagraph (B) that requests immediate funding for multiple projects.

"(B) REQUEST.—An applicant may submit a letter to the Secretary requesting entry of multiple projects into the project development phase under subsection (d)(1)(A)(i)(I), (e)(1)(A)(i)(I), or (h)(2)(A)(i)(I), for consideration for funding under this section. An applicant shall include in the request the amount of funding requested under this section for each additional project and the estimated capital cost of each project.

"(C) READINESS.—Projects included in the request must be ready to enter the project development phase under subsection (d)(1)(A), (e)(1)(A), or (h)(2)(A) at the same time.

"(D) PLANNING.—Projects in the bundle shall be included in the metropolitan transportation plan in accordance with section 5303(i).

"(E) PROJECT SPONSOR.—The applicant that submits an immediate bundling request shall be the project sponsor for each project included in the request.

"(F) PROGRAM AND PROJECT SHARE.—An immediate bundling request submitted under this subsection shall include a proposed share of each of the request's projects that is consistent with the requirements of subsections (k)(2)(C)(ii) or (h)(7), as applicable.

"(G) BENEFITS.—The bundling of projects under this subsection—

"(i) shall enhance, or increase the capacity of—

"(I) the total transportation system of the applicant; or

"(II) the transportation system of the region the applicant serves (which, in the case of a State whose request addresses a single region, means that region); and

"(ii) shall—

"(I) streamline procurements for the applicant; or

"(II) enable time or cost savings for the projects.

"(H) EVALUATION.—A project submitted for consideration for immediate funding in an immediate bundling request shall be subject to the applicable evaluation criteria under this section for the project type, including demonstrating the availability of local resources to recapitalize, maintain, and operate the overall existing and proposed public transportation system pursuant to subsection (f)(1)(C).

"(I) LETTER OF INTENT OR SINGLE GRANT AGREEMENT.—

"(i) IN GENERAL.—Upon entering into a grant agreement for the initial project for which an applicant submits a request, the Secretary may issue a letter of intent or single, combined grant agreement to the applicant.

"(ii) LETTER OF INTENT.—

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"(I) IN GENERAL.—A letter of intent announces an intention to obligate, for 1 or more additional projects included in the request, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the additional project or projects. Such letter may include a condition that the project or projects must meet the evaluation criteria in this subsection before a grant agreement can be executed.

"(II) AMOUNT.—The amount that the Secretary announces an intention to obligate for an additional project in a letter of intent issued under clause (i) shall be sufficient to complete at least an operable segment of the project.

"(III) TREATMENT.—The issuance of a letter of intent under clause (i) shall not be deemed to be an obligation under sections 1108(c), 1501, and 1502(a) of title 31 or an administrative commitment.

"(3) EVALUATION CRITERIA.—When the Secretary issues rules or policy guidance under this section, the Secretary may request comment from the public regarding potential changes to the evaluation criteria for project justification and local financial commitment under subsections (d), (e), (f), and (h) for the purposes of streamlining the evaluation process for projects included in a future bundling request or an immediate bundling request, including changes to enable simultaneous evaluation of multiple projects under 1 or more evaluation criteria. Notwithstanding paragraphs (1)(H) and (2)(H), such criteria may be utilized for projects included in a future bundling request or an immediate bundling request under this subsection upon promulgation of the applicable rule or policy guidance.

"(4) GRANT AGREEMENTS.—

"(A) NEW START AND CORE CAPACITY IMPROVEMENT PROJECTS.—A new start project or core capacity improvement project in an immediate bundling request or future bundling request shall be carried out through a full funding grant agreement or expedited grant agreement pursuant to subsection (k)(2).

"(B) SMALL START.—A small start project shall be carried out through a grant agreement pursuant to subsection (h)(7).

"(C) REQUIREMENT.—A combined grant agreement described in paragraph (2)(I)(i) shall—

"(i) include only projects in an immediate future bundling request that are ready to receive a grant agreement under this section,

"(ii) be carried out through a full funding grant agreement or expedited grant agreement pursuant to subsection (k)(2) for the included projects, if a project seeking assistance under the combined grant agreement is a new start project or core capacity improvement project; and

"(iii) be carried out through a grant agreement pursuant to subsection (h)(7) for the included projects,

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if the projects seeking assistance under the combined grant agreement consist entirely of small start projects.

"(D) SAVINGS PROVISION.—The use of a combined grant agreement shall not waive or amend applicable evaluation criteria under this section for projects included in the combined grant agreement.";

(6) in subsection (k)—

(A) in paragraph (2)(E)—

(i) by striking "(E) BEFORE AND AFTER STUDY.—" and all that follows through "(I) SUBMISSION OF PLAN.—" and inserting the following: "(E) INFORMATION COLLECTION AND ANALYSIS PLAN.—

"(i) SUBMISSION OF PLAN.—";

(ii) by redesignating subclause (II) of clause (i) (as so designated) as clause (ii), and adjusting the margin accordingly; and

(iii) in clause (ii) (as so redesignated)—

(I) by redesignating items (aa) through (dd) as subclauses (I) through (IV), respectively, and adjusting the margins accordingly; and

(II) in the matter preceding subclause (I) (as so redesignated), by striking "subclause (I)" and inserting "clause (i)"; and

(B) in paragraph (5), by striking "At least 30" and inserting "Not later than 15";

(7) in subsection (o)—

(A) by striking paragraph (2);

(B) by redesignating paragraph (3) as paragraph (2); and

(C) in paragraph (2) (as so redesignated)—

(i) in subparagraph (A)—

(I) in the matter preceding clause (i), by striking "of" and inserting "that";

(II) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and adjusting the margins accordingly;

(III) by inserting before subclause (I) (as so redesignated), the following:

"(i) assesses—";

(IV) in clause (i) (as so designated)—

(aa) in subclause (I) (as so redesignated), by striking "new fixed guideway capital projects and core capacity improvement projects" and inserting "all new fixed guideway capital projects and core capacity improvement projects for grant agreements under this section and section 3005(b) of the Federal Public Transportation Act of 2015 (49 U.S.C. 5309 note; Public Law 114–94)"; and

(bb) in subclause (II) (as so redesignated), by striking "and" at the end; and

(V) by adding at the end the following:

"(ii) includes, with respect to projects that entered into revenue service since the previous biennial review—

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"(I) a description and analysis of the impacts of the projects on public transportation services and public transportation ridership;

"(II) a description and analysis of the consistency of predicted and actual benefits and costs of the innovative project development and delivery methods of, or innovative financing for, the projects; and

"(III) an identification of the reasons for any differences between predicted and actual outcomes for the projects; and

"(iii) in conducting the review under clause (ii), incorporates information from the plans submitted by applicants under subsection (k)(2)(E)(i); and"; and

(ii) in subparagraph (B), by striking "each year" and inserting "the applicable year"; and

(8) by adding at the end the following:

"(r) CAPITAL INVESTMENT GRANT DASHBOARD.—

"(1) IN GENERAL.—The Secretary shall make publicly available in an easily identifiable location on the website of the Department of Transportation a dashboard containing the following information for each project seeking a grant agreement under this section:

"(A) Project name.

"(B) Project sponsor.

"(C) City or urbanized area and State in which the project will be located.

"(D) Project type.

"(E) Project mode.

"(F) Project length and number of stops, including length of exclusive bus rapid transit lanes, if applicable.

"(G) Anticipated total project cost.

"(H) Anticipated share of project costs to be sought under this section.

"(I) Date of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(J) Date on which the project entered the project development phase.

"(K) Date on which the project entered the engineering phase, if applicable.

"(L) Date on which a Letter of No Prejudice was requested, and date on which a Letter of No Prejudice was issued or denied, if applicable.

"(M) Date of the applicant's most recent project ratings, including date of request for updated ratings, if applicable.

"(N) Status of the project sponsor in securing non-Federal matching funds.

"(O) Date on which a project grant agreement is anticipated to be executed.

"(2) UPDATES.—The Secretary shall update the information provided under paragraph (1) not less frequently than monthly.

"(3) PROJECT PROFILES.—The Secretary shall continue to make profiles for projects that have applied for or are receiving assistance under this section publicly available in an easily identifiable location on the website of the Department of Transportation, in the same manner as the Secretary did as of the day before the date of enactment of this subsection.".

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(b) EXPEDITED PROJECT DELIVERY FOR CAPITAL INVESTMENT GRANTS PILOT PROGRAM.—Section 3005(b) of the Federal Public Transportation Act of 2015 (49 U.S.C. 5309 note; Public Law 114–94) is amended—

(1) in paragraph (1)(I)—

(A) in clause (i), by striking "$75,000,000" and inserting "$150,000,000"; and

(B) in clause (ii), by striking "$300,000,000" and inserting "$400,000,000";

(2) in paragraph (8)(D)(i), by striking "30 days" and inserting "15 days";

(3) by striking paragraph (12); and

(4) by redesignating paragraph (13) as paragraph (12).

SEC. 30006. FORMULA GRANTS FOR RURAL AREAS.

Section 5311 of title 49, United States Code, is amended—

(1) in subsection (c)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—Of the amounts made available or appropriated for each fiscal year pursuant to section 5338(a)(2)(F) to carry out this section—

"(A) an amount equal to 5 percent shall be available to carry out paragraph (2); and

"(B) 3 percent shall be available to carry out paragraph (3).

"(2) PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—For each fiscal year, the amounts made available under paragraph (1)(A) shall be apportioned for grants to Indian tribes for any purpose eligible under this section, under such terms and conditions as may be established by the Secretary, of which—

"(A) 20 percent shall be distributed by the Secretary on a competitive basis; and

"(B) 80 percent shall be apportioned as formula grants as provided in subsection (j)."; and

(2) in subsection (j)(1)(A), in the matter preceding clause (i), by striking "subsection (c)(1)(B)" and inserting "subsection (c)(2)(B)".

SEC. 30007. PUBLIC TRANSPORTATION INNOVATION.

(a) IN GENERAL.—Section 5312 of title 49, United States Code, is amended—

(1) by striking the first subsection designated as subsection (g), relating to annual reports on research, as so designated by section 3008(a)(6)(A) of the FAST Act (Public Law 114–94; 129 Stat. 1468) and inserting the following:

"(f) ANNUAL REPORT ON RESEARCH.—

"(1) IN GENERAL.—Not later than the first Monday in February of each year, the Secretary shall make available to the public on the Web site of the Department of Transportation, a report that includes—

"(A) a description of each project that received assistance under this section during the preceding fiscal year;

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"(B) an evaluation of each project described in paragraph (1), including any evaluation conducted under subsection (e)(4) for the preceding fiscal year; and

"(C) a strategic research roadmap proposal for allocations of amounts for assistance under this section for the current and subsequent fiscal year, including anticipated work areas, proposed demonstrations and strategic partnership opportunities;

"(2) UPDATES.—Not less than every 3 months, the Secretary shall update on the Web site of the Department of Transportation the information described in paragraph (1)(C) to reflect any changes to the Secretary's plans to make assistance available under this section.

"(3) LONG-TERM RESEARCH PLANS.—The Secretary is encouraged to develop long-term research plans and shall identify in the annual report under paragraph (1) and in updates under paragraph (2) allocations of amounts for assistance and notices of funding opportunities to execute long-term strategic research roadmap plans.";

(2) in paragraph (1) of subsection (g), relating to Government share of costs, by striking the period at the end and inserting ", except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share."; and

(3) in subsection (h)—

(A) in paragraph (2)—

(i) by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—The Secretary shall competitively select at least 1 facility—

"(i) to conduct testing, evaluation, and analysis of low or no emission vehicle components intended for use in low or no emission vehicles; and

"(ii) to conduct directed technology research.";

(ii) by striking subparagraph (B) and inserting the following:

"(B) TESTING, EVALUATION, AND ANALYSIS.—

"(i) IN GENERAL.—The Secretary shall enter into a contract or cooperative agreement with, or make a grant to, at least 1 institution of higher education to operate and maintain a facility to conduct testing, evaluation, and analysis of low or no emission vehicle components, and new and emerging technology components, intended for use in low or no emission vehicles.

"(ii) REQUIREMENTS.—An institution of higher education described in clause (i) shall have—

"(I) capacity to carry out transportation-related advanced component and vehicle evaluation;

"(II) laboratories capable of testing and evaluation; and

"(III) direct access to or a partnership with a testing facility capable of emulating real-world circumstances in order to test low or no emission vehicle components installed on the intended vehicle."; and

(iii) by adding at the end the following:

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"(H) CAPITAL EQUIPMENT AND DIRECTED RESEARCH.—A facility operated and maintained under subparagraph (A) may use funds made available under this subsection for—

"(i) acquisition of equipment and capital projects related to testing low or no emission vehicle components; or

"(ii) research related to advanced vehicle technologies that provides advancements to the entire public transportation industry.

"(I) COST SHARE.—The cost share for activities described in subparagraph (H) shall be subject to the terms in subsection (g)."; and

(B) in paragraph (3), by inserting ", as applicable" before the period at the end.

(b) LOW OR NO EMISSION VEHICLE COMPONENT ASSESSMENT.—

(1) IN GENERAL.—Institutions of higher education selected to operate and maintain a facility to conduct testing, evaluation, and analysis of low or no emission vehicle components pursuant to section 5312(h) of title 49, United States Code, shall not carry out testing for a new bus model under section 5318 of that title.

(2) USE OF FUNDS.—Funds made available to institutions of higher education described in paragraph (1) for testing under section 5318 of title 49, United States Code, may be used for eligible activities under section 5312(h) of that title.

(c) ACCELERATED IMPLEMENTATION AND DEPLOYMENT OF ADVANCED DIGITAL CONSTRUCTION MANAGEMENT SYSTEMS.—Section 5312(b) of title 49, United States Code, is amended by adding at the end the following:

"(4) ACCELERATED IMPLEMENTATION AND DEPLOYMENT OF ADVANCED DIGITAL CONSTRUCTION MANAGEMENT SYSTEMS.—

"(A) IN GENERAL.—The Secretary shall establish and implement a program under this subsection to promote, implement, deploy, demonstrate, showcase, support, and document the application of advanced digital construction management systems, practices, performance, and benefits.

"(B) GOALS.—The goals of the accelerated implementation and deployment of advanced digital construction management systems program established under subparagraph (A) shall include—

"(i) accelerated adoption of advanced digital systems applied throughout the lifecycle of transportation infrastructure (including through the planning, design and engineering, construction, operations, and maintenance phases) that—

"(I) maximize interoperability with other systems, products, tools, or applications;

"(II) boost productivity;

"(III) manage complexity;

"(IV) reduce project delays and cost overruns;

"(V) enhance safety and quality; and

"(VI) reduce total costs for the entire lifecycle of transportation infrastructure assets;

"(ii) more timely and productive information-sharing among stakeholders through reduced reliance on paper to manage construction processes and

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deliverables such as blueprints, design drawings, procurement and supply-chain orders, equipment logs, daily progress reports, and punch lists;

"(iii) deployment of digital management systems that enable and leverage the use of digital technologies on construction sites by contractors, such as state-of-the-art automated and connected machinery and optimized routing software that allows construction workers to perform tasks faster, safer, more accurately, and with minimal supervision;

"(iv) the development and deployment of best practices for use in digital construction management;

"(v) increased technology adoption and deployment by States, local governmental authorities, and designated recipients that enables project sponsors—

"(I) to integrate the adoption of digital management systems and technologies in contracts; and

"(II) to weigh the cost of digitization and technology in setting project budgets;

"(vi) technology training and workforce development to build the capabilities of project managers and sponsors that enables States, local governmental authorities, or designated recipients—

"(I) to better manage projects using advanced construction management technologies; and

"(II) to properly measure and reward technology adoption across projects;

"(vii) development of guidance to assist States, local governmental authorities, and designated recipients in updating regulations to allow project sponsors and contractors—

"(I) to report data relating to the project in digital formats; and

"(II) to fully capture the efficiencies and benefits of advanced digital construction management systems and related technologies;

"(viii) reduction in the environmental footprint of construction projects using advanced digital construction management systems resulting from elimination of congestion through more efficient projects; and

"(ix) enhanced worker and pedestrian safety resulting from increased transparency.

"(C) PUBLICATION.—The reporting requirements for the accelerated implementation and deployment of advanced digital construction management systems program established under section 503(c)(5) of title 23 shall include data and analysis collected under this section.".

SEC. 30008. BUS TESTING FACILITIES.

Section 5318 of title 49, United States Code, is amended by adding at the end the following:

"(f) CAPITAL EQUIPMENT.—A facility operated and maintained under this section may use funds made available under this section for the acquisition of equipment and capital projects related to testing new bus models.".

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SEC. 30009. TRANSIT-ORIENTED DEVELOPMENT.

Section 20005(b) of MAP–21 (49 U.S.C. 5303 note; Public Law 112–141) is amended—

(1) in paragraph (2), in the matter preceding subparagraph (A), by inserting "or site-specific" after "comprehensive"; and

(2) in paragraph (3)—

(A) in subparagraph (B), by inserting "or a site-specific plan" after "comprehensive plan";

(B) in subparagraph (C), by inserting "or the proposed site-specific plan" after "proposed comprehensive plan";

(C) in subparagraph (D), by inserting "or the site-specific plan" after "comprehensive plan"; and

(D) in subparagraph (E)(iii), by inserting "or the site-specific plan" after "comprehensive plan".

SEC. 30010. GENERAL PROVISIONS.

Section 5323(u) of title 49, United States Code, is amended by striking paragraph (2) and inserting the following:

"(2) EXCEPTION.—For purposes of paragraph (1), the term 'otherwise related legally or financially' does not include—

"(A) a minority relationship or investment; or

"(B) relationship with or investment in a subsidiary, joint venture, or other entity based in a country described in paragraph (1)(B) that does not export rolling stock or components of rolling stock for use in the United States.".

SEC. 30011. PUBLIC TRANSPORTATION EMERGENCY RELIEF PROGRAM.

Section 5324 of title 49, United States Code, is amended by adding at the end the following:

"(f) INSURANCE.—Before receiving a grant under this section following an emergency, an applicant shall—

"(1) submit to the Secretary documentation demonstrating proof of insurance required under Federal law for all structures related to the grant application; and

"(2) certify to the Secretary that the applicant has insurance required under State law for all structures related to the grant application.".

SEC. 30012. PUBLIC TRANSPORTATION SAFETY PROGRAM.

(a) IN GENERAL.—Section 5329 of title 49, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) in subparagraph (A), by inserting ", or, in the case of a recipient receiving assistance under section 5307 that is serving an urbanized area with a population of 200,000 or more, safety performance measures, including measures related to the risk reduction program under subsection (d)(1)(I), for all modes of public transportation" after "public transportation";

(ii) in subparagraph (C)(ii)—

(I) in subclause (I), by striking "and" at the end;

(II) in subclause (II), by adding "and" at the end; and

(III) by adding at the end the following:

"(III) innovations in driver assistance technologies and driver protection infrastructure,

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where appropriate, and a reduction in visibility impairments that contribute to pedestrian fatalities;";

(iii) in subparagraph (D)(ii)(V), by striking "and" at the end;

(iv) in subparagraph (E), by striking the period at the end and inserting "; and";

(v) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(vi) by inserting after subparagraph (C) the following:

"(D) in consultation with the Secretary of Health and Human Services, precautionary and reactive actions required to ensure public and personnel safety and health during an emergency (as defined in section 5324(a));"; and

(vii) by adding at the end the following:

"(G) consideration, where appropriate, of performance-based and risk-based methodologies."; and

(B) by adding at the end the following:

"(3) PLAN UPDATES.—The Secretary shall update the national public transportation safety plan under paragraph (1) as necessary with respect to recipients receiving assistance under section 5307 that serve an urbanized area with a population of 200,000 or more.";

(2) in subsection (c)—

(A) by striking paragraph (2); and

(B) by striking the subsection designation and heading and all that follows through "The Secretary" in paragraph (1) and inserting the following:

"(c) PUBLIC TRANSPORTATION SAFETY CERTIFICATION TRAINING PROGRAM.—The Secretary";

(3) in subsection (d)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking "Effective 1 year" and all that follows through "each recipient" and inserting "Each recipient";

(ii) in subparagraph (A), by inserting ", or, in the case of a recipient receiving assistance under section 5307 that is serving an urbanized area with a population of 200,000 or more, the safety committee of the entity established under paragraph (5), followed by the board of directors (or equivalent entity) of the recipient approve," after "approve";

(iii) by redesignating subparagraphs (B) through (G) as subparagraphs (C) through (H), respectively;

(iv) by inserting after subparagraph (A) the following:

"(B) for each recipient serving an urbanized area with a population of fewer than 200,000, a requirement that the agency safety plan be developed in cooperation with frontline employee representatives;";

(v) in subparagraph (D) (as so redesignated), by inserting ", and consistent with guidelines of the Centers for Disease Control and Prevention or a State health authority, minimize exposure to infectious diseases" after "public, personnel, and property to hazards and unsafe conditions";

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(vi) by striking subparagraph (F) (as so redesignated) and inserting the following:

"(F) performance targets based on—

"(i) the safety performance criteria and state of good repair standards established under subparagraphs (A) and (B), respectively, of subsection (b)(2); or

"(ii) in the case of a recipient receiving assistance under section 5307 that is serving an urbanized area with a population of 200,000 or more, safety performance measures established under the national public transportation safety plan, as described in subsection (b)(2)(A);";

(vii) in subparagraph (G) (as so redesignated), by striking "and" at the end; and

(viii) by striking subparagraph (H) (as so redesignated) and inserting the following:

"(H) a comprehensive staff training program for—

"(i) the operations personnel and personnel directly responsible for safety of the recipient that includes—

"(I) the completion of a safety training program; and

"(II) continuing safety education and training; or

"(ii) in the case of a recipient receiving assistance under section 5307 that is serving an urbanized area with a population of 200,000 or more, the operations and maintenance personnel and personnel directly responsible for safety of the recipient that includes—

"(I) the completion of a safety training program;

"(II) continuing safety education and training; and

"(III) de-escalation training; and

"(I) in the case of a recipient receiving assistance under section 5307 that is serving an urbanized area with a population of 200,000 or more, a risk reduction program for transit operations to improve safety by reducing the number and rates of accidents, injuries, and assaults on transit workers based on data submitted to the national transit database under section 5335, including—

"(i) a reduction of vehicular and pedestrian accidents involving buses that includes measures to reduce visibility impairments for bus operators that contribute to accidents, including retrofits to buses in revenue service and specifications for future procurements that reduce visibility impairments; and

"(ii) the mitigation of assaults on transit workers, including the deployment of assault mitigation infrastructure and technology on buses, including barriers to restrict the unwanted entry of individuals and objects into the workstations of bus operators when a risk analysis performed by the safety committee of the recipient established under paragraph (5) determines that such barriers or other measures would reduce assaults on transit workers and injuries to transit workers."; and

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(B) by adding at the end the following:

"(4) RISK REDUCTION PERFORMANCE TARGETS.—

"(A) IN GENERAL.—The safety committee of a recipient receiving assistance under section 5307 that is serving an urbanized area with a population of 200,000 or more established under paragraph (5) shall establish performance targets for the risk reduction program required under paragraph (1)(I) using a 3-year rolling average of the data submitted by the recipient to the national transit database under section 5335.

"(B) SAFETY SET ASIDE.—A recipient receiving assistance under section 5307 that is serving an urbanized area with a population of 200,000 or more shall allocate not less than 0.75 percent of those funds to safety-related projects eligible under section 5307.

"(C) FAILURE TO MEET PERFORMANCE TARGETS.—A recipient receiving assistance under section 5307 that is serving an urbanized area with a population of 200,000 or more that does not meet the performance targets established under subparagraph (A) shall allocate the amount made available in subparagraph (B) in the following fiscal year to projects described in subparagraph (D).

"(D) ELIGIBLE PROJECTS.—Funds set aside under subparagraph (C) shall be used for projects that are reasonably likely to assist the recipient in meeting the performance targets established in subparagraph (A), including modifications to rolling stock and de-escalation training.

"(5) SAFETY COMMITTEE.—

"(A) IN GENERAL.—For purposes of this subsection, the safety committee of a recipient shall—

"(i) be convened by a joint labor-management process;

"(ii) consist of an equal number of—

"(I) frontline employee representatives, selected by a labor organization representing the plurality of the frontline workforce employed by the recipient or, if applicable, a contractor to the recipient, to the extent frontline employees are represented by labor organizations; and

"(II) management representatives; and

"(iii) have, at a minimum, responsibility for—

"(I) identifying and recommending risk-based mitigations or strategies necessary to reduce the likelihood and severity of consequences identified through the agency's safety risk assessment;

"(II) identifying mitigations or strategies that may be ineffective, inappropriate, or were not implemented as intended; and

"(III) identifying safety deficiencies for purposes of continuous improvement.

"(B) APPLICABILITY.—This paragraph applies only to a recipient receiving assistance under section 5307 that is serving an urbanized area with a population of 200,000 or more.";

(4) in subsection (e)—

(A) in paragraph (4)(A)(v), by inserting ", inspection," after "investigative"; and

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(B) by adding at the end the following:

"(11) EFFECTIVENESS OF ENFORCEMENT AUTHORITIES AND PRACTICES.—The Secretary shall develop and disseminate to State safety oversight agencies the process and methodology that the Secretary will use to monitor the effectiveness of the enforcement authorities and practices of State safety oversight agencies."; and

(5) by striking subsection (k) and inserting the following:

"(k) INSPECTIONS.—

"(1) INSPECTION ACCESS.—

"(A) IN GENERAL.—A State safety oversight program shall provide the State safety oversight agency established by the program with the authority and capability to enter the facilities of each rail fixed guideway public transportation system that the State safety oversight agency oversees to inspect infrastructure, equipment, records, personnel, and data, including the data that the rail fixed guideway public transportation agency collects when identifying and evaluating safety risks.

"(B) POLICIES AND PROCEDURES.—A State safety oversight agency, in consultation with each rail fixed guideway public transportation agency that the State safety oversight agency oversees, shall establish policies and procedures regarding the access of the State safety oversight agency to conduct inspections of the rail fixed guideway public transportation system, including access for inspections that occur without advance notice to the rail fixed guideway public transportation agency.

"(2) DATA COLLECTION.—

"(A) IN GENERAL.—A rail fixed guideway public transportation agency shall provide the applicable State safety oversight agency with the data that the rail fixed guideway public transportation agency collects when identifying and evaluating safety risks, in accordance with subparagraph (B).

"(B) POLICIES AND PROCEDURES.—A State safety oversight agency, in consultation with each rail fixed guideway public transportation agency that the State safety oversight agency oversees, shall establish policies and procedures for collecting data described in subparagraph (A) from a rail fixed guideway public transportation agency, including with respect to frequency of collection, that is commensurate with the size and complexity of the rail fixed guideway public transportation system.

"(3) INCORPORATION.—Policies and procedures established under this subsection shall be incorporated into—

"(A) the State safety oversight program standard adopted by a State safety oversight agency under section 674.27 of title 49, Code of Federal Regulations (or any successor regulation); and

"(B) the public transportation agency safety plan established by a rail fixed guideway public transportation agency under subsection (d).

"(4) ASSESSMENT BY SECRETARY.—In assessing the capability of a State safety oversight agency to conduct inspections as required under paragraph (1), the Secretary shall ensure that—

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"(A) the inspection practices of the State safety oversight agency are commensurate with the number, size, and complexity of the rail fixed guideway public transportation systems that the State safety oversight agency oversees;

"(B) the inspection program of the State safety oversight agency is risk-based; and

"(C) the State safety oversight agency has sufficient resources to conduct the inspections.

"(5) SPECIAL DIRECTIVE.—The Secretary shall issue a special directive to each State safety oversight agency on the development and implementation of risk-based inspection programs under this subsection.

"(6) ENFORCEMENT.—The Secretary may use any authority under this section, including any enforcement action authorized under subsection (g), to ensure the compliance of a State safety oversight agency or State safety oversight program with this subsection.".

(b) DEADLINE; EFFECTIVE DATE.—

(1) SPECIAL DIRECTIVE ON RISK-BASED INSPECTION PROGRAMS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue each special directive required under section 5329(k)(5) of title 49, United States Code (as added by subsection (a)).

(2) INSPECTION REQUIREMENTS.—Section 5329(k) of title 49, United States Code (as amended by subsection (a)), shall apply with respect to a State safety oversight agency on and after the date that is 2 years after the date on which the Secretary of Transportation issues the special directive to the State safety oversight agency under paragraph (5) of that section 5329(k).

(c) NO EFFECT ON INITIAL CERTIFICATION PROCESS.—Nothing in this section or the amendments made by this section affects the requirements for initial approval of a State safety oversight program, including the initial deadline, under section 5329(e)(3) of title 49, United States Code.

SEC. 30013. ADMINISTRATIVE PROVISIONS.

Section 5334(h)(4) of title 49, United States Code, is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(2) by inserting after subparagraph (A) the following:

"(B) REIMBURSEMENT.—

"(i) FAIR MARKET VALUE OF LESS THAN $5,000.—With respect to rolling stock and equipment with a unit fair market value of $5,000 or less per unit and unused supplies with a total aggregate fair market value of $5,000 or less that was purchased using Federal financial assistance under this chapter, the rolling stock, equipment, and supplies may be retained, sold, or otherwise disposed of at the end of the service life of the rolling stock, equipment, or supplies without any obligation to reimburse the Federal Transit Administration.

"(ii) FAIR MARKET VALUE OF MORE THAN $5,000.—

"(I) IN GENERAL.—With respect to rolling stock and equipment with a unit fair market value of more than $5,000 per unit and unused supplies

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with a total aggregate fair market value of more than $5,000 that was purchased using Federal financial assistance under this chapter, the rolling stock, equipment, and supplies may be retained or sold at the end of the service life of the rolling stock, equipment, or supplies.

"(II) REIMBURSEMENT REQUIRED.—If rolling stock, equipment, or supplies described in subclause (I) is sold, of the proceeds from the sale—

"(aa) the recipient shall retain an amount equal to the sum of—

"(AA) $5,000; and

"(BB) of the remaining proceeds, a percentage of the amount equal to the non-Federal share expended by the recipient in making the original purchase; and

"(bb) any amounts remaining after application of item (aa) shall be returned to the Federal Transit Administration.

"(iii) ROLLING STOCK AND EQUIPMENT RETAINED.—Rolling stock, equipment, or supplies described in clause (i) or (ii) that is retained by a recipient under those clauses may be used by the recipient for other public transportation projects or programs with no obligation to reimburse the Federal Transit Administration, and no approval of the Secretary to retain that rolling stock, equipment, or supplies is required.".

SEC. 30014. NATIONAL TRANSIT DATABASE.

Section 5335 of title 49, United States Code, is amended—

(1) in subsection (a), in the first sentence, by inserting "geographic service area coverage," after "operating,"; and

(2) by striking subsection (c) and inserting the following:

"(c) DATA REQUIRED TO BE REPORTED.—Each recipient of a grant under this chapter shall report to the Secretary, for inclusion in the national transit database under this section—

"(1) any information relating to a transit asset inventory or condition assessment conducted by the recipient;

"(2) any data on assaults on transit workers of the recipients; and

"(3) any data on fatalities that result from an impact with a bus.".

SEC. 30015. APPORTIONMENT OF APPROPRIATIONS FOR FORMULA GRANTS.

(a) SMALL URBANIZED AREAS.—Section 5336(h)(3) of title 49, United States Code, is amended by striking "paragraphs (1) and (2)" and all that follows through "2 percent" in subparagraph (B) and inserting "paragraphs (1) and (2), 3 percent".

(b) FUNDING FOR STATE SAFETY OVERSIGHT PROGRAM GRANTS.—

(1) IN GENERAL.—Section 5336(h)(4) of title 49, United States Code, is amended by striking "0.5 percent" and inserting "0.75 percent".

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply with respect to fiscal year 2022 and each fiscal year thereafter.

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SEC. 30016. STATE OF GOOD REPAIR GRANTS.

Section 5337 of title 49, United States Code, is amended by adding at the end the following:

"(f) COMPETITIVE GRANTS FOR RAIL VEHICLE REPLACEMENT.—

"(1) IN GENERAL.—The Secretary may make grants under this subsection to assist State and local governmental authorities in financing capital projects for the replacement of rail rolling stock.

"(2) GRANT REQUIREMENTS.—Except as otherwise provided in this subsection, a grant under this subsection shall be subject to the same terms and conditions as a grant under subsection (b).

"(3) COMPETITIVE PROCESS.—The Secretary shall solicit grant applications and make not more than 3 new awards to eligible projects under this subsection on a competitive basis each fiscal year.

"(4) CONSIDERATION.—In awarding grants under this subsection, the Secretary shall consider—

"(A) the size of the rail system of the applicant;

"(B) the amount of funds available to the applicant under this subsection;

"(C) the age and condition of the rail rolling stock of the applicant that has exceeded or will exceed the useful service life of the rail rolling stock in the 5-year period following the grant; and

"(D) whether the applicant has identified replacement of the rail vehicles as a priority in the investment prioritization portion of the transit asset management plan of the recipient pursuant to part 625 of title 49, Code of Federal Regulations (or successor regulations).

"(5) MAXIMUM SHARE OF COMPETITIVE GRANT ASSISTANCE.—The amount of grant assistance provided by the Secretary under this subsection, as a share of eligible project costs, shall be not more than 50 percent.

"(6) GOVERNMENT SHARE OF COST.—The Government share of the cost of an eligible project carried out under this subsection shall not exceed 80 percent.

"(7) MULTI-YEAR GRANT AGREEMENTS.—

"(A) IN GENERAL.—An eligible project for which a grant is provided under this subsection may be carried out through a multi-year grant agreement in accordance with this paragraph.

"(B) REQUIREMENTS.—A multi-year grant agreement under this paragraph shall—

"(i) establish the terms of participation by the Federal Government in the project; and

"(ii) establish the maximum amount of Federal financial assistance for the project that may be provided through grant payments to be provided in not more than 3 consecutive fiscal years.

"(C) FINANCIAL RULES.—A multi-year grant agreement under this paragraph—

"(i) shall obligate an amount of available budget authority specified in law; and

"(ii) may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional

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amount from future available budget authority specified in law.

"(D) STATEMENT OF CONTINGENT COMMITMENT.—A multi-year agreement under this paragraph shall state that the contingent commitment is not an obligation of the Federal Government.".

SEC. 30017. AUTHORIZATIONS.

Section 5338 of title 49, United States Code, is amended to read as follows:

"§ 5338. Authorizations

"(a) GRANTS.—

"(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5305, 5307, 5310, 5311, 5312, 5314, 5318, 5335, 5337, 5339, and 5340, section 20005(b) of the Federal Public Transportation Act of 2012 (49 U.S.C. 5303 note; Public Law 112–141), and section 3006(b) of the Federal Public Transportation Act of 2015 (49 U.S.C. 5310 note; Public Law 114–94)—

"(A) $13,355,000,000 for fiscal year 2022;
"(B) $13,634,000,000 for fiscal year 2023;
"(C) $13,990,000,000 for fiscal year 2024;
"(D) $14,279,000,000 for fiscal year 2025; and
"(E) $14,642,000,000 for fiscal year 2026.

"(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1)—

"(A) $184,647,343 for fiscal year 2022, $188,504,820 for fiscal year 2023, $193,426,906 for fiscal year 2024, $197,422,644 for fiscal year 2025, and $202,441,512 for fiscal year 2026 shall be available to carry out section 5305;

"(B) $13,157,184 for fiscal year 2022, $13,432,051 for fiscal year 2023, $13,782,778 for fiscal year 2024, $14,067,497 for fiscal year 2025, and $14,425,121 for fiscal year 2026 shall be available to carry out section 20005(b) of the Federal Public Transportation Act of 2012 (49 U.S.C. 5303 note; Public Law 112–141);

"(C) $6,408,288,249 for fiscal year 2022, $6,542,164,133 for fiscal year 2023, $6,712,987,840 for fiscal year 2024, $6,851,662,142 for fiscal year 2025, and $7,025,844,743 for fiscal year 2026 shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307;

"(D) $371,247,094 for fiscal year 2022, $379,002,836 for fiscal year 2023, $388,899,052 for fiscal year 2024, $396,932,778 for fiscal year 2025, and $407,023,583 for fiscal year 2026 shall be available to provide financial assistance for services for the enhanced mobility of seniors and individuals with disabilities under section 5310;

"(E) $4,605,014 for fiscal year 2022, $4,701,218 for fiscal year 2023, $4,823,972 for fiscal year 2024, $4,923,624 for fiscal year 2025, and $5,048,792 for fiscal year 2026 shall be available for the pilot program for innovative coordinated access and mobility under section 3006(b) of

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the Federal Public Transportation Act of 2015 (49 U.S.C. 5310 note; Public Law 114–94);

"(F) $875,289,555 for fiscal year 2022, $893,575,275 for fiscal year 2023, $916,907,591 for fiscal year 2024, $935,848,712 for fiscal year 2025, and $959,639,810 for fiscal year 2026 shall be available to provide financial assistance for rural areas under section 5311;

"(G) $36,840,115 for fiscal year 2022, $37,609,743 for fiscal year 2023, $38,591,779 for fiscal year 2024, $39,388,993 for fiscal year 2025, and $40,390,337 for fiscal year 2026 shall be available to carry out section 5312, of which—

"(i) $5,000,000 for fiscal year 2022, $5,104,455 for fiscal year 2023, $5,237,739 for fiscal year 2024, $5,345,938 for fiscal year 2025, and $5,481,842 for fiscal year 2026 shall be available to carry out section 5312(h); and

"(ii) $6,578,592 for fiscal year 2022, $6,716,026 for fiscal year 2023, $6,891,389 for fiscal year 2024, $7,033,749 for fiscal year 2025, and $7,212,560 for fiscal year 2026 shall be available to carry out section 5312(i);

"(H) $11,841,465 for fiscal year 2022, $12,088,846 for fiscal year 2023, $12,404,500 for fiscal year 2024, $12,660,748 for fiscal year 2025, and $12,982,608 for fiscal year 2026 shall be available to carry out section 5314, of which $6,578,592 for fiscal year 2022, $6,716,026 for fiscal year 2023, $6,891,389 for fiscal year 2024, $7,033,749 for fiscal year 2025, and $7,212,560 for fiscal year 2026 shall be available for the national transit institute under section 5314(c);

"(I) $5,000,000 for fiscal year 2022, $5,104,455 for fiscal year 2023, $5,237,739 for fiscal year 2024, $5,345,938 for fiscal year 2025, and $5,481,842 for fiscal year 2026 shall be available for bus testing under section 5318;

"(J) $131,000,000 for fiscal year 2022, $134,930,000 for fiscal year 2023, $138,977,900 for fiscal year 2024, $143,147,237 for fiscal year 2025, and $147,441,654 for fiscal year 2026 shall be available to carry out section 5334;

"(K) $5,262,874 for fiscal year 2022, $5,372,820 for fiscal year 2023, $5,513,111 for fiscal year 2024, $5,626,999 for fiscal year 2025, and $5,770,048 for fiscal year 2026 shall be available to carry out section 5335;

"(L) $3,515,528,226 for fiscal year 2022, $3,587,778,037 for fiscal year 2023, $3,680,934,484 for fiscal year 2024, $3,755,675,417 for fiscal year 2025, and $3,850,496,668 for fiscal year 2026 shall be available to carry out section 5337, of which $300,000,000 for each of fiscal years 2022 through 2026 shall be available to carry out section 5337(f);

"(M) $603,992,657 for fiscal year 2022, $616,610,699 for fiscal year 2023, $632,711,140 for fiscal year 2024, $645,781,441 for fiscal year 2025, and $662,198,464 for fiscal year 2026 shall be available for the bus and buses facilities program under section 5339(a);

"(N) $447,257,433 for fiscal year 2022, $456,601,111 for fiscal year 2023, $468,523,511 for fiscal year 2024,

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$478,202,088 for fiscal year 2025, and $490,358,916 for fiscal year 2026 shall be available for buses and bus facilities competitive grants under section 5339(b) and no or low emission grants under section 5339(c), of which $71,561,189 for fiscal year 2022, $73,056,178 for fiscal year 2023, $74,963,762 for fiscal year 2024, $76,512,334 for fiscal year 2025, and $78,457,427 for fiscal year 2026 shall be available to carry out section 5339(c); and

"(O) $741,042,792 for fiscal year 2022, $756,523,956 for fiscal year 2023, $776,277,698 for fiscal year 2024, $792,313,742 for fiscal year 2025, and $812,455,901 for fiscal year 2026, to carry out section 5340 to provide financial assistance for urbanized areas under section 5307 and rural areas under section 5311, of which—

"(i) $392,752,680 for fiscal year 2022, $400,957,696 for fiscal year 2023, $411,427,180 for fiscal year 2024, $419,926,283 for fiscal year 2025, and $430,601,628 for fiscal year 2026 shall be for growing States under section 5340(c); and

"(ii) $348,290,112 for fiscal year 2022, $355,566,259 for fiscal year 2023, $364,850,518 for fiscal year 2024, $372,387,459 for fiscal year 2025, and $381,854,274 for fiscal year 2026 shall be for high density States under section 5340(d).

"(b) CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309 of this title and section 3005(b) of the Federal Public Transportation Act of 2015 (49 U.S.C. 5309 note; Public Law 114–94), $3,000,000,000 for each of fiscal years 2022 through 2026.

"(c) OVERSIGHT.—

"(1) IN GENERAL.—Of the amounts made available to carry out this chapter for a fiscal year, the Secretary may use not more than the following amounts for the activities described in paragraph (2):

"(A) 0.5 percent of amounts made available to carry out section 5305.

"(B) 0.75 percent of amounts made available to carry out section 5307.

"(C) 1 percent of amounts made available to carry out section 5309.

"(D) 1 percent of amounts made available to carry out section 601 of the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110–432; 126 Stat. 4968).

"(E) 0.5 percent of amounts made available to carry out section 5310.

"(F) 0.5 percent of amounts made available to carry out section 5311.

"(G) 1 percent of amounts made available to carry out section 5337, of which not less than 0.25 percent of amounts made available for this subparagraph shall be available to carry out section 5329.

"(H) 0.75 percent of amounts made available to carry out section 5339.

"(2) ACTIVITIES.—The activities described in this paragraph are as follows:

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"(A) Activities to oversee the construction of a major capital project.

"(B) Activities to review and audit the safety and security, procurement, management, and financial compliance of a recipient or subrecipient of funds under this chapter.

"(C) Activities to provide technical assistance generally, and to provide technical assistance to correct deficiencies identified in compliance reviews and audits carried out under this section.

"(D) Activities to carry out section 5334.

"(3) GOVERNMENT SHARE OF COSTS.—The Government shall pay the entire cost of carrying out a contract under this subsection.

"(4) AVAILABILITY OF CERTAIN FUNDS.—Funds made available under paragraph (1)(C) shall be made available to the Secretary before allocating the funds appropriated to carry out any project under a full funding grant agreement.

"(d) GRANTS AS CONTRACTUAL OBLIGATIONS.—

"(1) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available from the Mass Transit Account of the Highway Trust Fund pursuant to this section is a contractual obligation of the Government to pay the Government share of the cost of the project.

"(2) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by the Secretary and financed with amounts appropriated in advance from the General Fund of the Treasury pursuant to this section is a contractual obligation of the Government to pay the Government share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

"(e) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under this section shall remain available until expended.".

SEC. 30018. GRANTS FOR BUSES AND BUS FACILITIES.

Section 5339 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (5)(A)—

(i) by striking "$90,500,000 for each of fiscal years 2016 through 2020" and inserting "$206,000,000 each fiscal year";

(ii) by striking "$1,750,000" and inserting "$4,000,000"; and

(iii) by striking "$500,000" and inserting "$1,000,000"; and

(B) by adding at the end the following:

"(10) MAXIMIZING USE OF FUNDS.—

"(A) IN GENERAL.—Eligible recipients and subrecipients under this subsection should, to the extent practicable, seek to utilize the procurement tools authorized under section 3019 of the FAST Act (49 U.S.C. 5325 note; Public Law 114–94).

"(B) WRITTEN EXPLANATION.—If an eligible recipient or subrecipient under this subsection purchases less than 5 buses through a standalone procurement, the eligible recipient or subrecipient shall provide to the Secretary

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a written explanation regarding why the tools authorized under section 3019 of the FAST Act (49 U.S.C. 5325 note; Public Law 114–94) were not utilized.";

(2) in subsection (b)—

(A) by striking paragraph (5) and inserting the following:

"(5) RURAL PROJECTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), not less than 15 percent of the amounts made available under this subsection in a fiscal year shall be distributed to projects in rural areas.

"(B) UNUTILIZED AMOUNTS.—The Secretary may use less than 15 percent of the amounts made available under this subsection in a fiscal year for the projects described in subparagraph (A) if the Secretary cannot meet the requirement of that subparagraph due to insufficient eligible applications."; and

(B) by adding at the end the following:

"(9) COMPETITIVE PROCESS.—The Secretary shall—

"(A) not later than 30 days after the date on which amounts are made available for obligation under this subsection for a full fiscal year, solicit grant applications for eligible projects on a competitive basis; and

"(B) award a grant under this subsection based on the solicitation under subparagraph (A) not later than the earlier of—

"(i) 75 days after the date on which the solicitation expires; or

"(ii) the end of the fiscal year in which the Secretary solicited the grant applications.

"(10) CONTINUED USE OF PARTNERSHIPS.—

"(A) IN GENERAL.—An eligible recipient of a grant under this subsection may submit an application in partnership with other entities, including a transit vehicle manufacturer that intends to participate in the implementation of a project under this subsection and subsection (c).

"(B) COMPETITIVE PROCUREMENT.—Projects awarded with partnerships under this subsection shall be considered to satisfy the requirement for a competitive procurement under section 5325.

"(11) MAXIMIZING USE OF FUNDS.—

"(A) IN GENERAL.—Eligible recipients under this subsection should, to the extent practicable, seek to utilize the procurement tools authorized under section 3019 of the FAST Act (49 U.S.C. 5325 note; Public Law 114–94).

"(B) WRITTEN EXPLANATION.—If an eligible recipient under this subsection purchases less than 5 buses through a standalone procurement, the eligible recipient shall provide to the Secretary a written explanation regarding why the tools authorized under section 3019 of the FAST Act (49 U.S.C. 5325 note; Public Law 114–94) were not utilized.";

(3) in subsection (c)—

(A) in paragraph (3)—

(i) by amending subparagraph (A) to read as follows:

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"(A) IN GENERAL.—A grant under this subsection shall be subject to—

"(i) with respect to eligible recipients in urbanized areas, section 5307; and

"(ii) with respect to eligible recipients in rural areas, section 5311."; and

(ii) by adding at the end the following:

"(D) FLEET TRANSITION PLAN.—In awarding grants under this subsection or under subsection (b) for projects related to zero emission vehicles, the Secretary shall require the applicant to submit a zero emission transition plan, which, at a minimum—

"(i) demonstrates a long-term fleet management plan with a strategy for how the applicant intends to use the current application and future acquisitions;

"(ii) addresses the availability of current and future resources to meet costs;

"(iii) considers policy and legislation impacting technologies;

"(iv) includes an evaluation of existing and future facilities and their relationship to the technology transition;

"(v) describes the partnership of the applicant with the utility or alternative fuel provider of the applicant; and

"(vi) examines the impact of the transition on the applicant's current workforce by identifying skill gaps, training needs, and retraining needs of the existing workers of the applicant to operate and maintain zero emission vehicles and related infrastructure and avoids the displacement of the existing workforce.";

(B) by striking paragraph (5) and inserting the following:

"(5) CONSIDERATION.—In awarding grants under this subsection, the Secretary—

"(A) shall consider eligible projects relating to the acquisition or leasing of low or no emission buses or bus facilities that make greater reductions in energy consumption and harmful emissions, including direct carbon emissions, than comparable standard buses or other low or no emission buses; and

"(B) shall, for no less than 25 percent of the funds made available to carry out this subsection, only consider eligible projects related to the acquisition of low or no emission buses or bus facilities other than zero emission vehicles and related facilities."; and

(C) by adding at the end the following:

"(8) CONTINUED USE OF PARTNERSHIPS.—

"(A) IN GENERAL.—A recipient of a grant under this subsection may submit an application in partnership with other entities, including a transit vehicle manufacturer, that intends to participate in the implementation of an eligible project under this subsection.

"(B) COMPETITIVE PROCUREMENT.—Eligible projects awarded with partnerships under this subsection shall be considered to satisfy the requirement for a competitive procurement under section 5325."; and

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(4) by adding at the end the following:

"(d) WORKFORCE DEVELOPMENT TRAINING ACTIVITIES.—5 percent of grants related to zero emissions vehicles (as defined in subsection (c)(1)) or related infrastructure under subsection (b) or (c) shall be used by recipients to fund workforce development training, as described in section 5314(b)(2) (including registered apprenticeships and other labor-management training programs) under the recipient's plan to address the impact of the transition to zero emission vehicles on the applicant's current workforce under subsection (c)(3)(D), unless the recipient certifies a smaller percentage is necessary to carry out that plan.".

SEC. 30019. WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY SAFETY, ACCOUNTABILITY, AND INVESTMENT.

(a) DEFINITIONS.—In this section:

(1) BOARD.—The term "Board" means the Board of Directors of the Transit Authority.

(2) COMPACT.—The term "Compact" means the Washington Metropolitan Area Transit Authority Compact consented to by Congress under Public Law 89–774 (80 Stat. 1324).

(3) COVERED RECIPIENT.—The term "covered recipient" means—

(A)(i) the Committee on Banking, Housing, and Urban Affairs of the Senate;

(ii) the Committee on Homeland Security and Governmental Affairs of the Senate;

(iii) the Committee on Transportation and Infrastructure of the House of Representatives; and

(iv) the Committee on Oversight and Reform of the House of Representatives;

(B)(i) the Governor of Maryland;

(ii) the President of the Maryland Senate; and

(iii) the Speaker of the Maryland House of Delegates;

(C)(i) the Governor of Virginia;

(ii) the President of the Virginia Senate; and

(iii) the Speaker of the Virginia House of Delegates;

(D)(i) the Mayor of the District of Columbia; and

(ii) the Chairman of the Council of the District of Columbia; and

(E) the Chairman of the Northern Virginia Transportation Commission.

(4) INSPECTOR GENERAL; OFFICE OF THE INSPECTOR GENERAL.—The terms "Inspector General" and "Office of Inspector General" mean the Inspector General and the Office of Inspector General, respectively, of the Transit Authority.

(5) TRANSIT AUTHORITY.—The term "Transit Authority" means the Washington Metropolitan Area Transit Authority established under Article III of the Compact.

(b) REAUTHORIZATION OF CAPITAL AND PREVENTIVE MAINTENANCE GRANTS TO WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY.—Section 601(f) of the Passenger Rail Investment and Improvement Act of 2008 (division B of Public Law 110–432; 122 Stat. 4970) is amended by striking "an aggregate amount" and all that follows through the period at the end and inserting "$150,000,000 for each of fiscal years 2022 through 2030.".

(c) FUNDS FOR WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY'S INSPECTOR GENERAL.—Title VI of the Passenger Rail

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Investment and Improvement Act of 2008 (division B of Public Law 110–432; 122 Stat. 4968) is amended by adding at the end the following:

"SEC. 602. FUNDING FOR INSPECTOR GENERAL.

"(a) DEFINITIONS.—In this section:

"(1) COMPACT.—The term 'Compact' means the Washington Metropolitan Area Transit Authority Compact consented to by Congress under Public Law 89–774 (80 Stat. 1324).

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(3) TRANSIT AUTHORITY.—The term 'Transit Authority' has the meaning given the term in section 601(a)(2).

"(b) FUNDING FOR OFFICE OF INSPECTOR GENERAL OF THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY.—Subject to subsection (c), of the amounts authorized to be appropriated for a fiscal year under section 601(f), the Secretary shall use $5,000,000 for grants to the Transit Authority for use exclusively by the Office of Inspector General of the Transit Authority for the operations of the Office in accordance with Section 9 of Article III of the Compact, to remain available until expended.

"(c) MATCHING INSPECTOR GENERAL FUNDS REQUIRED FROM TRANSIT AUTHORITY.—The Secretary may not provide any amounts to the Transit Authority for a fiscal year under subsection (b) until the Transit Authority notifies the Secretary that the Transit Authority has made available $5,000,000 in non-Federal funds for that fiscal year for use exclusively by the Office of Inspector General of the Transit Authority for the operations of the Office in accordance with Section 9 of Article III of the Compact.".

(d) REFORMS TO OFFICE OF INSPECTOR GENERAL.—

(1) SENSE OF CONGRESS.—Congress recognizes the importance of the Transit Authority having a strong and independent Office of Inspector General, as codified in subsections (a) and (d) of Section 9 of Article III of the Compact.

(2) REFORMS.—The Secretary of Transportation may not provide any amounts to the Transit Authority under section 601(f) of the Passenger Rail Investment and Improvement Act of 2008 (division B of Public Law 110–432; 122 Stat. 4968) (as amended by subsection (b)), until the Secretary of Transportation certifies that the Board has passed a resolution that—

(A) provides that, for each fiscal year, the Office of Inspector General shall transmit a budget estimate and request to the Board specifying the aggregate amount of funds requested for the fiscal year for the operations of the Office of Inspector General;

(B) delegates to the Inspector General, to the extent possible under the Compact and in accordance with each applicable Federal law or regulation, contracting officer authority, subject to the requirement that the Inspector General exercise that authority—

(i) in accordance with Section 73 of Article XVI of the Compact, after working with the Transit Authority to amend procurement policies and procedures to give the Inspector General approving authority for exceptions to those policies and procedures; and

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(ii) only as is necessary to carry out the duties of the Office of Inspector General;

(C) delegates to the Inspector General, to the extent possible under the Compact and in accordance with each applicable Federal law or regulation—

(i) the authority to select, appoint, and employ such officers and employees as may be necessary for carrying out the duties of the Office of Inspector General, subject to the requirement that the Inspector General exercise that authority in accordance with—

(I) subsections (g) and (h) of Section 12 of Article V of the Compact; and

(II) personnel policies and procedures of the Transit Authority; and

(ii) approving authority, subject to the approval of the Board, for exceptions to policies that impact the independence of the Office of Inspector General, but those exceptions may not include the use of employee benefits and pension plans other than the employee benefits and pension plans of the Transit Authority;

(D)(i) ensures that the Inspector General obtains legal advice from a counsel reporting directly to the Inspector General; and

(ii) prohibits the counsel described in clause (i) from—

(I) providing legal advice for or on behalf of the Transit Authority;

(II) issuing a legal opinion on behalf of the Transit Authority or making a statement about a legal position of the Transit Authority; or

(III) waiving any privilege or protection from disclosure on any matter under the jurisdiction of the Transit Authority; and

(E) requires the Inspector General to—

(i) post any report containing a recommendation for corrective action to the website of the Office of Inspector General not later than 3 days after the report is submitted in final form to the Board, except that—

(I) the Inspector General shall, if required by law or otherwise appropriate, redact—

(aa) personally identifiable information;

(bb) legally privileged information;

(cc) information legally prohibited from disclosure; and

(dd) information that, in the determination of the Inspector General, would pose a security risk to the systems of the Transit Authority; and

(II) with respect to any investigative findings in a case involving administrative misconduct, whether included in a recommendation or otherwise, the Inspector General shall publish only a summary of the findings, which summary shall be redacted in accordance with the procedures set forth in subclause (I);

(ii) submit a semiannual report containing recommendations of corrective action to the Board, which

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the Board shall transmit not later than 30 days after receipt of the report, together with any comments the Board determines appropriate, to—

(I) each covered recipient described in subsection (a)(3)(A); and

(II) any other recipients that the Board determines appropriate; and

(iii) not later than 2 years after the date of enactment of this Act and 5 years after the date of enactment of this Act, submit to each covered recipient a report that—

(I) describes the implementation by the Transit Authority of the reforms required under, and the use by the Transit Authority of the funding authorized under—

(aa) chapter 34 of title 33.2 of the Code of Virginia;

(bb) section 10–205 of the Transportation Article of the Code of Maryland; and

(cc) section 6002 of the Dedicated WMATA Funding and Tax Changes Affecting Real Property and Sales Amendment Act of 2018 (1–325.401, D.C. Official Code); and

(II) contains—

(aa) an assessment of the effective use of the funding described in subclause (I) to address major capital improvement projects;

(bb) a discussion of compliance with strategic plan deadlines;

(cc) an examination of compliance with the reform requirements under the laws described in subclause (I), including identifying any challenges to compliance or implementation; and

(dd) recommendations to the Transit Authority to improve implementation.

(e) CAPITAL PROGRAM AND PLANNING.—

(1) CAPITAL PLANNING PROCEDURES.—The Transit Authority may not expend any amounts received under section 602(b) of the Passenger Rail Investment and Improvement Act of 2008 (division B of Public Law 110–432; 122 Stat. 4968), (as added by subsection (c)), until the General Manager of the Transit Authority certifies to the Secretary of Transportation that the Transit Authority has implemented—

(A) documented policies and procedures for the capital planning process that include—

(i) a process that aligns projects to the strategic goals of the Transit Authority; and

(ii) a process to develop total project costs and alternatives for all major capital projects (as defined in section 633.5 of title 49, Code of Federal Regulations (or successor regulations));

(B) a transit asset management planning process that includes —

(i) asset inventory and condition assessment procedures; and

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(ii) procedures to develop a data set of track, guideway, and infrastructure systems, including tunnels, bridges, and communications assets, that complies with the transit asset management regulations of the Secretary of Transportation under part 625 of title 49, Code of Federal Regulations (or successor regulations); and

(C) performance measures, aligned with the strategic goals of the Transit Authority, to assess the effectiveness and outcomes of major capital projects.

(2) ANNUAL REPORT.—As a condition of receiving amounts under section 602(b) of the Passenger Rail Investment and Improvement Act of 2008 (division B of Public Law 110–432; 122 Stat. 4968) (as added by subsection (c)), the Transit Authority shall submit an annual report detailing the Capital Improvement Program of the Transit Agency approved by the Board and compliance with the transit asset management regulations of the Secretary of Transportation under part 625 of title 49, Code of Federal Regulations (or successor regulations), to—

(A) each covered recipient; and

(B) any other recipient that the Board determines appropriate.

(f) SENSE OF CONGRESS.—It is the sense of Congress that the Transit Authority should—

(1) continue to prioritize the implementation of new technological systems that include robust cybersecurity protections; and

(2) prioritize continued integration of new wireless services and emergency communications networks, while also leveraging partnerships with mobility services to improve the competitiveness of the core business.

(g) ADDITIONAL REPORTING.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the congressional committees described in paragraph (2) a report that—

(A) assesses whether the reforms required under subsection (d) (relating to strengthening the independence of the Office of Inspector General) have been implemented; and

(B) assesses—

(i) whether the reforms required under subsection (g) have been implemented; and

(ii) the impact of those reforms on the capital planning process of the Transit Authority.

(2) CONGRESSIONAL COMMITTEES.—The congressional committees described in this paragraph are—

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

(B) the Committee on Homeland Security and Governmental Affairs of the Senate;

(C) the Committee on Transportation and Infrastructure of the House of Representatives; and

(D) the Committee on Oversight and Reform of the House of Representatives.

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DIVISION D—ENERGY

SEC. 40001. DEFINITIONS.

In this division:

(1) DEPARTMENT.—The term "Department" means the Department of Energy.

(2) INDIAN TRIBE.—The term "Indian Tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

(3) SECRETARY.—The term "Secretary" means the Secretary of Energy.

TITLE I—GRID INFRASTRUCTURE AND RESILIENCY

Subtitle A—Grid Infrastructure Resilience and Reliability

SEC. 40101. PREVENTING OUTAGES AND ENHANCING THE RESILIENCE OF THE ELECTRIC GRID.

(a) DEFINITIONS.—In this section:

(1) DISRUPTIVE EVENT.—The term "disruptive event" means an event in which operations of the electric grid are disrupted, preventively shut off, or cannot operate safely due to extreme weather, wildfire, or a natural disaster.

(2) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) an electric grid operator;

(B) an electricity storage operator;

(C) an electricity generator;

(D) a transmission owner or operator;

(E) a distribution provider;

(F) a fuel supplier; and

(G) any other relevant entity, as determined by the Secretary.

(3) NATURAL DISASTER.—The term "natural disaster" has the meaning given the term in section 602(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a(a)).

(4) POWER LINE.—The term "power line" includes a transmission line or a distribution line, as applicable.

(5) PROGRAM.—The term "program" means the program established under subsection (b).

(b) ESTABLISHMENT OF PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish a program under which the Secretary shall make grants to eligible entities, States, and Indian Tribes in accordance with this section.

(c) GRANTS TO ELIGIBLE ENTITIES.—

(1) IN GENERAL.—The Secretary may make a grant under the program to an eligible entity to carry out activities that—

(A) are supplemental to existing hardening efforts of the eligible entity planned for any given year; and

(B)(i) reduce the risk of any power lines owned or operated by the eligible entity causing a wildfire; or

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(ii) increase the ability of the eligible entity to reduce the likelihood and consequences of disruptive events.

(2) APPLICATION.—

(A) IN GENERAL.—An eligible entity desiring a grant under the program shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(B) REQUIREMENT.—As a condition of receiving a grant under the program, an eligible entity shall submit to the Secretary, as part of the application of the eligible entity submitted under subparagraph (A), a report detailing past, current, and future efforts by the eligible entity to reduce the likelihood and consequences of disruptive events.

(3) LIMITATION.—The Secretary may not award a grant to an eligible entity in an amount that is greater than the total amount that the eligible entity has spent in the previous 3 years on efforts to reduce the likelihood and consequences of disruptive events.

(4) PRIORITY.—In making grants to eligible entities under the program, the Secretary shall give priority to projects that, in the determination of the Secretary, will generate the greatest community benefit (whether rural or urban) in reducing the likelihood and consequences of disruptive events.

(5) SMALL UTILITIES SET ASIDE.—The Secretary shall ensure that not less than 30 percent of the amounts made available to eligible entities under the program are made available to eligible entities that sell not more than 4,000,000 megawatt hours of electricity per year.

(d) GRANTS TO STATES AND INDIAN TRIBES.—

(1) IN GENERAL.—The Secretary, in accordance with this subsection, may make grants under the program to States and Indian Tribes, which each State or Indian Tribe may use to award grants to eligible entities.

(2) ANNUAL APPLICATION.—

(A) IN GENERAL.—For each fiscal year, to be eligible to receive a grant under this subsection, a State or Indian Tribe shall submit to the Secretary an application that includes a plan described in subparagraph (B).

(B) PLAN REQUIRED.—A plan prepared by a State or Indian Tribe for purposes of an application described in subparagraph (A) shall—

(i) describe the criteria and methods that will be used by the State or Indian Tribe to award grants to eligible entities;

(ii) be adopted after notice and a public hearing; and

(iii) describe the proposed funding distributions and recipients of the grants to be provided by the State or Indian Tribe.

(3) DISTRIBUTION OF FUNDS.—

(A) IN GENERAL.—The Secretary shall provide grants to States and Indian Tribes under this subsection based on a formula determined by the Secretary, in accordance with subparagraph (B).

(B) REQUIREMENT.—The formula referred to in subparagraph (A) shall be based on the following factors:

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(i) The total population of the State or Indian Tribe.

(ii)(I) The total area of the State or the land of the Indian Tribe; or

(II) the areas in the State or on the land of the Indian Tribe with a low ratio of electricity customers per mileage of power lines.

(iii) The probability of disruptive events in the State or on the land of the Indian Tribe during the previous 10 years, as determined based on the number of federally declared disasters or emergencies in the State or on the land of the Indian Tribe, as applicable, including—

(I) disasters for which Fire Management Assistance Grants are provided under section 420 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5187);

(II) major disasters declared by the President under section 401 of that Act (42 U.S.C. 5170);

(III) emergencies declared by the President under section 501 of that Act (42 U.S.C. 5191); and

(IV) any other federally declared disaster or emergency in the State or on the land of the Indian Tribe.

(iv) The number and severity, measured by population and economic impacts, of disruptive events experienced by the State or Indian Tribe on or after January 1, 2011.

(v) The total amount, on a per capita basis, of public and private expenditures during the previous 10 years to carry out mitigation efforts to reduce the likelihood and consequences of disruptive events in the State or on the land of the Indian Tribe, with States or Indian Tribes with higher per capita expenditures receiving additional weight or consideration as compared to States or Indian Tribes with lower per capita expenditures.

(C) ANNUAL UPDATE OF DATA USED IN DISTRIBUTION OF FUNDS.—Beginning 1 year after the date of enactment of this Act, the Secretary shall annually update—

(i) all data relating to the factors described in subparagraph (B); and

(ii) all other data used in distributing grants to States and Indian Tribes under this subsection.

(4) OVERSIGHT.—The Secretary shall ensure that each grant provided to a State or Indian Tribe under the program is allocated, pursuant to the applicable plan of the State or Indian Tribe, to eligible entities for projects within the State or on the land of the Indian Tribe.

(5) PRIORITY.—In making grants to eligible entities using funds made available to the applicable State or Indian Tribe under the program, the State or Indian Tribe shall give priority to projects that, in the determination of the State or Indian Tribe, will generate the greatest community benefit (whether rural or urban) in reducing the likelihood and consequences of disruptive events.

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(6) SMALL UTILITIES SET ASIDE.—A State or Indian Tribe receiving a grant under the program shall ensure that, of the amounts made available to eligible entities from funds made available to the State or Indian Tribe under the program, the percentage made available to eligible entities that sell not more than 4,000,000 megawatt hours of electricity per year is not less than the percentage of all customers in the State or Indian Tribe that are served by those eligible entities.

(7) TECHNICAL ASSISTANCE AND ADMINISTRATIVE EXPENSES.—Of the amounts made available to a State or Indian Tribe under the program each fiscal year, the State or Indian Tribe may use not more than 5 percent for—

(A) providing technical assistance under subsection (g)(1)(A); and

(B) administrative expenses associated with the program.

(8) MATCHING REQUIREMENT.—Each State and Indian Tribe shall be required to match 15 percent of the amount of each grant provided to the State or Indian Tribe under the program.

(e) USE OF GRANTS.—

(1) IN GENERAL.—A grant awarded to an eligible entity under the program may be used for activities, technologies, equipment, and hardening measures to reduce the likelihood and consequences of disruptive events, including—

(A) weatherization technologies and equipment;

(B) fire-resistant technologies and fire prevention systems;

(C) monitoring and control technologies;

(D) the undergrounding of electrical equipment;

(E) utility pole management;

(F) the relocation of power lines or the reconductoring of power lines with low-sag, advanced conductors;

(G) vegetation and fuel-load management;

(H) the use or construction of distributed energy resources for enhancing system adaptive capacity during disruptive events, including—

(i) microgrids; and

(ii) battery-storage subcomponents;

(I) adaptive protection technologies;

(J) advanced modeling technologies;

(K) hardening of power lines, facilities, substations, of other systems; and

(L) the replacement of old overhead conductors and underground cables.

(2) PROHIBITIONS AND LIMITATIONS.—

(A) IN GENERAL.—A grant awarded to an eligible entity under the program may not be used for—

(i) construction of a new—

(I) electric generating facility; or

(II) large-scale battery-storage facility that is not used for enhancing system adaptive capacity during disruptive events; or

(ii) cybersecurity.

(B) CERTAIN INVESTMENTS ELIGIBLE FOR RECOVERY.—

(i) IN GENERAL.—An eligible entity may not seek cost recovery for the portion of the cost of any system,

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technology, or equipment that is funded through a grant awarded under the program.

(ii) SAVINGS PROVISION.—Nothing in this subparagraph prohibits an eligible entity from recovering through traditional or incentive-based ratemaking any portion of an investment in a system, technology, or equipment that is not funded by a grant awarded under the program.

(C) APPLICATION LIMITATIONS.—An eligible entity may not submit an application for a grant provided by the Secretary under subsection (c) and a grant provided by a State or Indian Tribe pursuant to subsection (d) during the same application cycle.

(f) DISTRIBUTION OF FUNDING.—Of the amounts made available to carry out the program for a fiscal year, the Secretary shall ensure that—

(1) 50 percent is used to award grants to eligible entities under subsection (c); and

(2) 50 percent is used to make grants to States and Indian Tribes under subsection (d).

(g) TECHNICAL AND OTHER ASSISTANCE.—

(1) IN GENERAL.—The Secretary, States, and Indian Tribes may—

(A) provide technical assistance and facilitate the distribution and sharing of information to reduce the likelihood and consequences of disruptive events; and

(B) promulgate consumer-facing information and resources to inform the public of best practices and resources relating to reducing the likelihood and consequences of disruptive events.

(2) USE OF FUNDS BY THE SECRETARY.—Of the amounts made available to the Secretary to carry out the program each fiscal year, the Secretary may use not more than 5 percent for—

(A) providing technical assistance under paragraph (1)(A); and

(B) administrative expenses associated with the program.

(h) MATCHING REQUIREMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), an eligible entity that receives a grant under this section shall be required to match 100 percent of the amount of the grant.

(2) EXCEPTION FOR SMALL UTILITIES.—An eligible entity that sells not more than 4,000,000 megawatt hours of electricity per year shall be required to match ⅓ of the amount of the grant.

(i) BIENNIAL REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter through 2026, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the program.

(2) REQUIREMENTS.—The report under paragraph (1) shall include information and data on—

(A) the costs of the projects for which grants are awarded to eligible entities;

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(B) the types of activities, technologies, equipment, and hardening measures funded by those grants; and

(C) the extent to which the ability of the power grid to withstand disruptive events has increased.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out the program $5,000,000,000 for the period of fiscal years 2022 through 2026.

SEC. 40102. HAZARD MITIGATION USING DISASTER ASSISTANCE.

Section 404(f)(12) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(f)(12)) is amended—

(1) by inserting "and wildfire" after "windstorm";

(2) by striking "including replacing" and inserting the following: "including—

"(A) replacing";

(3) in subparagraph (A) (as so designated)—

(A) by inserting ", wildfire," after "extreme wind"; and

(B) by adding "and" after the semicolon at the end; and

(4) by adding at the end the following:

"(B) the installation of fire-resistant wires and infrastructure and the undergrounding of wires;".

SEC. 40103. ELECTRIC GRID RELIABILITY AND RESILIENCE RESEARCH, DEVELOPMENT, AND DEMONSTRATION.

(a) DEFINITION OF FEDERAL FINANCIAL ASSISTANCE.—In this section, the term "Federal financial assistance" has the meaning given the term in section 200.1 of title 2, Code of Federal Regulations.

(b) ENERGY INFRASTRUCTURE FEDERAL FINANCIAL ASSISTANCE PROGRAM.—

(1) DEFINITIONS.—In this subsection:

(A) ELIGIBLE ENTITY.—The term "eligible entity" means each of—

(i) a State;

(ii) a combination of 2 or more States;

(iii) an Indian Tribe;

(iv) a unit of local government; and

(v) a public utility commission.

(B) PROGRAM.—The term "program" means the competitive Federal financial assistance program established under paragraph (2).

(2) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish a program, to be known as the "Program Upgrading Our Electric Grid and Ensuring Reliability and Resiliency", to provide, on a competitive basis, Federal financial assistance to eligible entities to carry out the purpose described in paragraph (3).

(3) PURPOSE.—The purpose of the program is to coordinate and collaborate with electric sector owners and operators—

(A) to demonstrate innovative approaches to transmission, storage, and distribution infrastructure to harden and enhance resilience and reliability; and

(B) to demonstrate new approaches to enhance regional grid resilience, implemented through States by public and rural electric cooperative entities on a cost-shared basis.

(4) APPLICATIONS.—To be eligible to receive Federal financial assistance under the program, an eligible entity shall

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submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of—

(A) how the Federal financial assistance would be used;

(B) the expected beneficiaries, and

(C) in the case of a proposal from an eligible entity described in paragraph (1)(A)(ii), how the proposal would improve regional energy infrastructure.

(5) SELECTION.—The Secretary shall select eligible entities to receive Federal financial assistance under the program on a competitive basis.

(6) COST SHARE.—Section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352) shall apply to Federal financial assistance provided under the program.

(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this subsection, $5,000,000,000 for the period of fiscal years 2022 through 2026.

(c) ENERGY IMPROVEMENT IN RURAL OR REMOTE AREAS.—

(1) DEFINITION OF RURAL OR REMOTE AREA.—In this subsection, the term "rural or remote area" means a city, town, or unincorporated area that has a population of not more than 10,000 inhabitants.

(2) REQUIRED ACTIVITIES.—The Secretary shall carry out activities to improve in rural or remote areas of the United States—

(A) the resilience, safety, reliability, and availability of energy; and

(B) environmental protection from adverse impacts of energy generation.

(3) FEDERAL FINANCIAL ASSISTANCE.—The Secretary, in consultation with the Secretary of the Interior, may provide Federal financial assistance to rural or remote areas for the purpose of—

(A) overall cost-effectiveness of energy generation, transmission, or distribution systems;

(B) siting or upgrading transmission and distribution lines;

(C) reducing greenhouse gas emissions from energy generation by rural or remote areas;

(D) providing or modernizing electric generation facilities;

(E) developing microgrids; and

(F) increasing energy efficiency.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this subsection, $1,000,000,000 for the period of fiscal years 2022 through 2026.

(d) ENERGY INFRASTRUCTURE RESILIENCE FRAMEWORK.—

(1) IN GENERAL.—The Secretary, in collaboration with the Secretary of Homeland Security, the Federal Energy Regulatory Commission, the North American Electric Reliability Corporation, and interested energy infrastructure stakeholders, shall develop common analytical frameworks, tools, metrics, and data to assess the resilience, reliability, safety, and security of energy infrastructure in the United States, including by developing

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and storing an inventory of easily transported high-voltage recovery transformers and other required equipment.

(2) ASSESSMENT AND REPORT.—

(A) ASSESSMENT.—The Secretary shall carry out an assessment of—

(i) with respect to the inventory of high-voltage recovery transformers, new transformers, and other equipment proposed to be developed and stored under paragraph (1)—

(I) the policies, technical specifications, and logistical and program structures necessary to mitigate the risks associated with the loss of high-voltage recovery transformers;

(II) the technical specifications for high-voltage recovery transformers;

(III) where inventory of high-voltage recovery transformers should be stored;

(IV) the quantity of high-voltage recovery transformers necessary for the inventory;

(V) how the stored inventory of high-voltage recovery transformers would be secured and maintained;

(VI) how the high-voltage recovery transformers may be transported;

(VII) opportunities for developing new flexible advanced transformer designs; and

(VIII) whether new Federal regulations or cost-sharing requirements are necessary to carry out the storage of high-voltage recovery transformers; and

(ii) any efforts carried out by industry as of the date of the assessment—

(I) to share transformers and equipment;

(II) to develop plans for next generation transformers; and

(III) to plan for surge and long-term manufacturing of, and long-term standardization of, transformer designs.

(B) PROTECTION OF INFORMATION.—Information that is provided to, generated by, or collected by the Secretary under subparagraph (A) shall be considered to be critical electric infrastructure information under section 215A of the Federal Power Act (16 U.S.C. 824o–1).

(C) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the results of the assessment carried out under subparagraph (A).

SEC. 40104. UTILITY DEMAND RESPONSE.

(a) CONSIDERATION OF DEMAND-RESPONSE STANDARD.—

(1) IN GENERAL.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

"(20) DEMAND-RESPONSE PRACTICES.—

"(A) IN GENERAL.—Each electric utility shall promote the use of demand-response and demand flexibility practices by commercial, residential, and industrial consumers

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to reduce electricity consumption during periods of unusually high demand.

"(B) RATE RECOVERY.—

"(i) IN GENERAL.—Each State regulatory authority shall consider establishing rate mechanisms allowing an electric utility with respect to which the State regulatory authority has ratemaking authority to timely recover the costs of promoting demand-response and demand flexibility practices in accordance with subparagraph (A).

"(ii) NONREGULATED ELECTRIC UTILITIES.—A nonregulated electric utility may establish rate mechanisms for the timely recovery of the costs of promoting demand-response and demand flexibility practices in accordance with subparagraph (A).".

(2) COMPLIANCE.—

(A) TIME LIMITATIONS.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding at the end the following:

"(7)(A) Not later than 1 year after the date of enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which the State has ratemaking authority) and each nonregulated electric utility shall commence consideration under section 111, or set a hearing date for consideration, with respect to the standard established by paragraph (20) of section 111(d).

"(B) Not later than 2 years after the date of enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which the State has ratemaking authority), and each nonregulated electric utility shall complete the consideration and make the determination under section 111 with respect to the standard established by paragraph (20) of section 111(d).".

(B) FAILURE TO COMPLY.—

(i) IN GENERAL.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended—

(I) by striking "such paragraph (14)" and all that follows through "paragraphs (16)" and inserting "such paragraph (14). In the case of the standard established by paragraph (15) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of that paragraph (15). In the case of the standards established by paragraphs (16)"; and

(II) by adding at the end the following: "In the case of the standard established by paragraph (20) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of that paragraph (20).".

(ii) TECHNICAL CORRECTION.—Paragraph (2) of section 1254(b) of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 971) is repealed and the amendment made by that paragraph (as in effect on the day before the date of enactment of this Act) is void,

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and section 112(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(d)) shall be in effect as if that amendment had not been enacted.

(C) PRIOR STATE ACTIONS.—

(i) IN GENERAL.—Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end the following:

"(g) PRIOR STATE ACTIONS.—Subsections (b) and (c) shall not apply to the standard established by paragraph (20) of section 111(d) in the case of any electric utility in a State if, before the date of enactment of this subsection—

"(1) the State has implemented for the electric utility the standard (or a comparable standard);

"(2) the State regulatory authority for the State or the relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard (or a comparable standard) for the electric utility; or

"(3) the State legislature has voted on the implementation of the standard (or a comparable standard) for the electric utility.".

(ii) CROSS-REFERENCE.—Section 124 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2634) is amended—

(I) by striking "this subsection" each place it appears and inserting "this section"; and

(II) by adding at the end the following: "In the case of the standard established by paragraph (20) of section 111(d), the reference contained in this section to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of that paragraph (20).".

(b) OPTIONAL FEATURES OF STATE ENERGY CONSERVATION PLANS.—Section 362(d) of the Energy Policy and Conservation Act (42 U.S.C. 6322(d)) is amended—

(1) in paragraph (16), by striking "and" at the end;

(2) by redesignating paragraph (17) as paragraph (18); and

(3) by inserting after paragraph (16) the following:

"(17) programs that promote the installation and use of demand-response technology and demand-response practices; and".

(c) FEDERAL ENERGY MANAGEMENT PROGRAM.—Section 543(i) of the National Energy Conservation Policy Act (42 U.S.C. 8253(i)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "and" at the end;

(B) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(C) to reduce energy consumption during periods of unusually high electricity or natural gas demand."; and

(2) in paragraph (3)(A)—

(A) in clause (v), by striking "and" at the end;

(B) in clause (vi), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

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"(vii) promote the installation of demand-response technology and the use of demand-response practices in Federal buildings.".

(d) COMPONENTS OF ZERO-NET-ENERGY COMMERCIAL BUILDINGS INITIATIVE.—Section 422(d)(3) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17082(d)) is amended by inserting "(including demand-response technologies, practices, and policies)" after "policies".

SEC. 40105. SITING OF INTERSTATE ELECTRIC TRANSMISSION FACILITIES.

(a) DESIGNATION OF NATIONAL INTEREST ELECTRIC TRANSMISSION CORRIDORS.—Section 216(a) of the Federal Power Act (16 U.S.C. 824p(a)) is amended—

(1) in paragraph (1)—

(A) by inserting "and Indian Tribes" after "affected States"; and

(B) by inserting "capacity constraints and" before "congestion";

(2) in paragraph (2)—

(A) by striking "After" and inserting "Not less frequently than once every 3 years, the Secretary, after"; and

(B) by striking "affected States" and all that follows through the period at the end and inserting the following: "affected States and Indian Tribes), shall issue a report, based on the study under paragraph (1) or other information relating to electric transmission capacity constraints and congestion, which may designate as a national interest electric transmission corridor any geographic area that—

"(i) is experiencing electric energy transmission capacity constraints or congestion that adversely affects consumers; or

"(ii) is expected to experience such energy transmission capacity constraints or congestion.";

(3) in paragraph (3)—

(A) by striking "The Secretary shall conduct the study and issue the report in consultation" and inserting "Not less frequently than once every 3 years, the Secretary, in conducting the study under paragraph (1) and issuing the report under paragraph (2), shall consult"; and

(4) in paragraph (4)—

(A) in subparagraph (C), by inserting "or energy security" after "independence";

(B) in subparagraph (D), by striking "and" at the end;

(C) in subparagraph (E), by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following:

"(F) the designation would enhance the ability of facilities that generate or transmit firm or intermittent energy to connect to the electric grid;

"(G) the designation—

"(i) maximizes existing rights-of-way; and

"(ii) avoids and minimizes, to the maximum extent practicable, and offsets to the extent appropriate and practicable, sensitive environmental areas and cultural heritage sites; and

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"(H) the designation would result in a reduction in the cost to purchase electric energy for consumers.".

(b) CONSTRUCTION PERMIT.—Section 216(b) of the Federal Power Act (16 U.S.C. 824p(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)(ii), by inserting "or interregional benefits" after "interstate benefits"; and

(B) by striking subparagraph (C) and inserting the following:

"(C) a State commission or other entity that has authority to approve the siting of the facilities—

"(i) has not made a determination on an application seeking approval pursuant to applicable law by the date that is 1 year after the later of—

"(I) the date on which the application was filed; and

"(II) the date on which the relevant national interest electric transmission corridor was designated by the Secretary under subsection (a);

"(ii) has conditioned its approval in such a manner that the proposed construction or modification will not significantly reduce transmission capacity constraints or congestion in interstate commerce or is not economically feasible; or

"(iii) has denied an application seeking approval pursuant to applicable law;".

(c) RIGHTS-OF-WAY.—Section 216(e)(1) of the Federal Power Act (16 U.S.C. 824p(e)(1)) is amended by striking "modify the transmission facilities, the" and inserting "modify, and operate and maintain, the transmission facilities and, in the determination of the Commission, the permit holder has made good faith efforts to engage with landowners and other stakeholders early in the applicable permitting process, the".

(d) INTERSTATE COMPACTS.—Section 216(i) of the Federal Power Act (16 U.S.C. 824p(i)) is amended—

(1) in paragraph (2), by striking "may" and inserting "shall"; and

(2) in paragraph (4), by striking "the members" and all that follows through the period at the end and inserting the following: "the Secretary determines that the members of the compact are in disagreement after the later of—

"(A) the date that is 1 year after the date on which the relevant application for the facility was filed; and

"(B) the date that is 1 year after the date on which the relevant national interest electric transmission corridor was designated by the Secretary under subsection (a).".

SEC. 40106. TRANSMISSION FACILITATION PROGRAM.

(a) DEFINITIONS.—In this section:

(1) CAPACITY CONTRACT.—The term "capacity contract" means a contract entered into by the Secretary and an eligible entity under subsection (e)(1)(A) for the right to the use of the transmission capacity of an eligible project.

(2) ELIGIBLE ELECTRIC POWER TRANSMISSION LINE.—The term "eligible electric power transmission line" means an electric power transmission line that is capable of transmitting not less than—

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(A) 1,000 megawatts; or

(B) in the case of a project that consists of upgrading an existing transmission line or constructing a new transmission line in an existing transmission, transportation, or telecommunications infrastructure corridor, 500 megawatts.

(3) ELIGIBLE ENTITY.—The term "eligible entity" means an entity seeking to carry out an eligible project.

(4) ELIGIBLE PROJECT.—The term "eligible project" means a project (including any related facility)—

(A) to construct a new or replace an existing eligible electric power transmission line;

(B) to increase the transmission capacity of an existing eligible electric power transmission line; or

(C) to connect an isolated microgrid to an existing transmission, transportation, or telecommunications infrastructure corridor located in Alaska, Hawaii, or a territory of the United States.

(5) FUND.—The term "Fund" means the Transmission Facilitation Fund established by subsection (d)(1).

(6) PROGRAM.—The term "program" means the Transmission Facilitation Program established by subsection (b).

(7) RELATED FACILITY.—

(A) IN GENERAL.—The term "related facility" means a facility related to an eligible project described in paragraph (4).

(B) EXCLUSIONS.—The term "related facility" does not include—

(i) facilities used primarily to generate electric energy; or

(ii) facilities used in the local distribution of electric energy.

(b) ESTABLISHMENT.—There is established a program, to be known as the "Transmission Facilitation Program", under which the Secretary shall facilitate the construction of electric power transmission lines and related facilities in accordance with subsection (e).

(c) APPLICATIONS.—

(1) IN GENERAL.—To be eligible for assistance under this section, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(2) PROCEDURES.—The Secretary shall establish procedures for the solicitation and review of applications from eligible entities.

(d) FUNDING.—

(1) TRANSMISSION FACILITATION FUND.—There is established in the Treasury a fund, to be known as the "Transmission Facilitation Fund", consisting of—

(A) all amounts received by the Secretary, including receipts, collections, and recoveries, from any source relating to expenses incurred by the Secretary in carrying out the program, including—

(i) costs recovered pursuant to paragraph (4);

(ii) amounts received as repayment of a loan issued to an eligible entity under subsection (e)(1)(B); and

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(iii) amounts contributed by eligible entities for the purpose of carrying out an eligible project with respect to which the Secretary is participating with the eligible entity under subsection (e)(1)(C);

(B) all amounts borrowed from the Secretary of the Treasury by the Secretary for the program under paragraph (2); and

(C) any amounts appropriated to the Secretary for the program.

(2) BORROWING AUTHORITY.—The Secretary of the Treasury may, without further appropriation and without fiscal year limitation, loan to the Secretary on such terms as may be fixed by the Secretary and the Secretary of the Treasury, such sums as, in the judgment of the Secretary, are from time to time required for the purpose of carrying out the program, not to exceed, in the aggregate (including deferred interest), $2,500,000,000 in outstanding repayable balances at any 1 time.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out the program, including for any administrative expenses of carrying out the program that are not recovered under paragraph (4), $10,000,000 for each of fiscal years 2022 through 2026.

(4) COST RECOVERY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the cost of any facilitation activities carried out by the Secretary under subsection (e)(1) shall be collected—

(i) from eligible entities receiving the benefit of the applicable facilitation activity, on a schedule to be determined by the Secretary; or

(ii) with respect to a contracted transmission capacity under subsection (e)(1)(A) through rates charged for the use of the contracted transmission capacity.

(B) FORGIVENESS OF BALANCES.—

(i) TERMINATION OR END OF USEFUL LIFE.—If, at the end of the useful life of an eligible project or the termination of a capacity contract under subsection (f)(5), there is a remaining balance owed to the Treasury under this section, the balance shall be forgiven.

(ii) UNCONSTRUCTED PROJECTS.—Funds expended to study projects that are considered pursuant to this section but that are not constructed shall be forgiven.

(C) RECOVERY OF COSTS OF ELIGIBLE PROJECTS.—The Secretary may collect the costs of any activities carried out by the Secretary with respect to an eligible project in which the Secretary participates with an eligible entity under subsection (e)(1)(C) through rates charged to customers benefitting from the new transmission capability provided by the eligible project.

(e) FACILITATION OF ELIGIBLE PROJECTS.—

(1) IN GENERAL.—To facilitate eligible projects, the Secretary may—

(A) subject to subsections (f) and (i), enter into a capacity contract with respect to an eligible project prior to the date on which the eligible project is completed;

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(B) subject to subsections (g) and (i), issue a loan to an eligible entity for the costs of carrying out an eligible project; or

(C) subject to subsections (h) and (i), participate with an eligible entity in designing, developing, constructing, operating, maintaining, or owning an eligible project.

(2) REQUIREMENT.—The provision and receipt of assistance for an eligible project under paragraph (1) shall be subject to such terms and conditions as the Secretary determines to be appropriate—

(A) to ensure the success of the program; and

(B) to protect the interests of the United States.

(f) CAPACITY CONTRACTS.—

(1) PURPOSE.—In entering into capacity contracts under subsection (e)(1)(A), the Secretary shall seek to enter into capacity contracts that will encourage other entities to enter into contracts for the transmission capacity of the eligible project.

(2) PAYMENT.—The amount paid by the Secretary to an eligible entity under a capacity contract for the right to the use of the transmission capacity of an eligible project shall be—

(A) the fair market value for the use of the transmission capacity, as determined by the Secretary, taking into account, as the Secretary determines to be necessary, the comparable value for the use of the transmission capacity of other electric power transmission lines; and

(B) on a schedule and in such divided amounts, which may be a single amount, that the Secretary determines are likely to facilitate construction of the eligible project, taking into account standard industry practice and factors specific to each applicant, including, as applicable—

(i) potential review by a State regulatory entity of the revenue requirement of an electric utility; and

(ii) the financial model of an independent transmission developer.

(3) LIMITATIONS.—A capacity contract shall—

(A) be for a term of not more than 40 years; and

(B) be for not more than 50 percent of the total proposed transmission capacity of the applicable eligible project.

(4) TRANSMISSION MARKETING.—

(A) IN GENERAL.—If the Secretary has not terminated a capacity contract under paragraph (5) before the applicable eligible project enters into service, the Secretary may enter into 1 or more contracts with a third party to market the transmission capacity of the eligible project to which the Secretary holds rights under the capacity contract.

(B) RETURN.—Subject to subparagraph (D), the Secretary shall seek to ensure that any contract entered into under subparagraph (A) maximizes the financial return to the Federal Government.

(C) COMPETITIVE SOLICITATION.—The Secretary shall only select third parties for contracts under this paragraph through a competitive solicitation.

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(D) REQUIREMENT.—The marketing of capacity pursuant to this subsection, including any marketing by a third party under subparagraph (A), shall be undertaken consistent with the requirements of the Federal Power Act (16 U.S.C. 791a et seq.).

(5) TERMINATION.—

(A) IN GENERAL.—The Secretary shall seek to terminate a capacity contract as soon as practicable after determining that sufficient transmission capacity of the eligible project has been secured by other entities to ensure the long-term financial viability of the eligible project, including through 1 or more transfers under subparagraph (B).

(B) TRANSFER.—On payment to the Secretary by a third party for transmission capacity to which the Secretary has rights under a capacity contract, the Secretary may transfer the rights to that transmission capacity to that third party.

(C) RELINQUISHMENT.—On payment to the Secretary by the applicable eligible entity for transmission capacity to which the Secretary has rights under a capacity contract, the Secretary may relinquish the rights to that transmission capacity to the eligible entity.

(D) REQUIREMENT.—A payment under subparagraph (B) or (C) shall be in an amount sufficient for the Secretary to recover any remaining costs incurred by the Secretary with respect to the quantity of transmission capacity affected by the transfer under subparagraph (B) or the relinquishment under subparagraph (C), as applicable.

(6) OTHER FEDERAL CAPACITY POSITIONS.—The existence of a capacity contract does not preclude a Federal entity, including a Federal power marketing administration, from otherwise securing transmission capacity at any time from an eligible project, to the extent that the Federal entity is authorized to secure that transmission capacity.

(7) FORM OF FINANCIAL ASSISTANCE.—Entering into a capacity contract under subsection (e)(1)(A) shall be considered a form of financial assistance described in section 1508.1(q)(1)(vii) of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act).

(8) TRANSMISSION PLANNING REGION CONSULTATION.—Prior to entering into a capacity contract under this subsection, the Secretary shall consult with the relevant transmission planning region regarding the transmission planning region's identification of needs, and the Secretary shall minimize, to the extent possible, duplication or conflict with the transmission planning region's needs determination and selection of projects that meet such needs.

(g) INTEREST RATE ON LOANS.—The rate of interest to be charged in connection with any loan made by the Secretary to an eligible entity under subsection (e)(1)(B) shall be fixed by the Secretary, taking into consideration market yields on outstanding marketable obligations of the United States of comparable maturities as of the date of the loan.

(h) PUBLIC-PRIVATE PARTNERSHIPS.—The Secretary may participate with an eligible entity with respect to an eligible project under subsection (e)(1)(C) if the Secretary determines that the eligible project—

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(1)(A) is located in an area designated as a national interest electric transmission corridor pursuant to section 216(a) of the Federal Power Act 16 U.S.C. 824p(a); or

(B) is necessary to accommodate an actual or projected increase in demand for electric transmission capacity across more than 1 State or transmission planning region;

(2) is consistent with efficient and reliable operation of the transmission grid;

(3) will be operated in conformance with prudent utility practices;

(4) will be operated in conformance with the rules of—

(A) a Transmission Organization (as defined in section 3 of the Federal Power Act (16 U.S.C. 796)), if applicable; or

(B) a regional reliability organization; and

(5) is not duplicative of the functions of existing transmission facilities that are the subject of ongoing siting and related permitting proceedings.

(i) CERTIFICATION.—Prior to taking action to facilitate an eligible project under subparagraph (A), (B), or (C) of subsection (e)(1), the Secretary shall certify that—

(1) the eligible project is in the public interest;

(2) the eligible project is unlikely to be constructed in as timely a manner or with as much transmission capacity in the absence of facilitation under this section, including with respect to an eligible project for which a Federal investment tax credit may be allowed; and

(3) it is reasonable to expect that the proceeds from the eligible project will be adequate, as applicable—

(A) to recover the cost of a capacity contract entered into under subsection (e)(1)(A);

(B) to repay a loan provided under subsection (e)(1)(B); or

(C) to repay any amounts borrowed from the Secretary of the Treasury under subsection (d)(2).

(j) OTHER AUTHORITIES, LIMITATIONS, AND EFFECTS.—

(1) PARTICIPATION.—The Secretary may permit other entities to participate in the financing, construction, and ownership of eligible projects facilitated under this section.

(2) OPERATIONS AND MAINTENANCE.—Facilitation by the Secretary of an eligible project under this section does not create any obligation on the part of the Secretary to operate or maintain the eligible project.

(3) FEDERAL FACILITIES.—For purposes of cost recovery under subsection (d)(4) and repayment of a loan issued under subsection (e)(1)(B), each eligible project facilitated by the Secretary under this section shall be treated as separate and distinct from—

(A) each other eligible project; and

(B) all other Federal power and transmission facilities.

(4) EFFECT ON ANCILLARY SERVICES AUTHORITY AND OBLIGATIONS.—Nothing in this section confers on the Secretary or any Federal power marketing administration any additional authority or obligation to provide ancillary services to users of transmission facilities constructed or upgraded under this section.

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(5) EFFECT ON WESTERN AREA POWER ADMINISTRATION PROJECTS.—Nothing in this section affects—

(A) any pending project application before the Western Area Power Administration under section 301 of the Hoover Power Plant Act of 1984 (42 U.S.C. 16421a); or

(B) any agreement entered into by the Western Power Administration under that section.

(6) THIRD-PARTY FINANCE.—Nothing in this section precludes an eligible project facilitated under this section from being eligible as a project under section 1222 of the Energy Policy Act of 2005 (42 U.S.C. 16421).

(7) LIMITATION ON LOANS.—An eligible project may not be the subject of both—

(A) a loan under subsection (e)(1)(B); and

(B) a Federal loan under section 301 of the Hoover Power Plant Act of 1984 (42 U.S.C. 16421a).

(8) CONSIDERATIONS.—In evaluating eligible projects for possible facilitation under this section, the Secretary shall prioritize projects that, to the maximum extent practicable—

(A) use technology that enhances the capacity, efficiency, resiliency, or reliability of an electric power transmission system, including—

(i) reconductoring of an existing electric power transmission line with advanced conductors; and

(ii) hardware or software that enables dynamic line ratings, advanced power flow control, or grid topology optimization;

(B) will improve the resiliency and reliability of an electric power transmission system;

(C) facilitate interregional transfer capacity that supports strong and equitable economic growth; and

(D) contribute to national or subnational goals to lower electricity sector greenhouse gas emissions.

SEC. 40107. DEPLOYMENT OF TECHNOLOGIES TO ENHANCE GRID FLEXIBILITY.

(a) IN GENERAL.—Section 1306 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17386) is amended—

(1) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "the date of enactment of this Act" and inserting "the date of enactment of the Infrastructure Investment and Jobs Act";

(B) by redesignating paragraph (9) as paragraph (14); and

(C) by inserting after paragraph (8) the following:

"(9) In the case of data analytics that enable software to engage in Smart Grid functions, the documented purchase costs of the data analytics.

"(10) In the case of buildings, the documented expenses for devices and software, including for installation, that allow buildings to engage in demand flexibility or Smart Grid functions.

"(11) In the case of utility communications, operational fiber and wireless broadband communications networks to enable data flow between distribution system components.

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"(12) In the case of advanced transmission technologies such as dynamic line rating, flow control devices, advanced conductors, network topology optimization, or other hardware, software, and associated protocols applied to existing transmission facilities that increase the operational transfer capacity of a transmission network, the documented expenditures to purchase and install those advanced transmission technologies.

"(13) In the case of extreme weather or natural disasters, the ability to redirect or shut off power to minimize blackouts and avoid further damage."; and

(2) in subsection (d)—

(A) by redesignating paragraph (9) as paragraph (16); and

(B) by inserting after paragraph (8) the following:

"(9) The ability to use data analytics and software-as-service to provide flexibility by improving the visibility of the electrical system to grid operators that can help quickly rebalance the electrical system with autonomous controls.

"(10) The ability to facilitate the aggregation or integration of distributed energy resources to serve as assets for the grid.

"(11) The ability to provide energy storage to meet fluctuating electricity demand, provide voltage support, and integrate intermittent generation sources, including vehicle-to-grid technologies.

"(12) The ability of hardware, software, and associated protocols applied to existing transmission facilities to increase the operational transfer capacity of a transmission network.

"(13) The ability to anticipate and mitigate impacts of extreme weather or natural disasters on grid resiliency.

"(14) The ability to facilitate the integration of renewable energy resources, electric vehicle charging infrastructure, and vehicle-to-grid technologies.

"(15) The ability to reliably meet increased demand from electric vehicles and the electrification of appliances and other sectors.".

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out the Smart Grid Investment Matching Grant Program established under section 1306(a) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17386(a)) $3,000,000,000 for fiscal year 2022, to remain available through September 30, 2026.

SEC. 40108. STATE ENERGY SECURITY PLANS.

(a) IN GENERAL.—Part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.) is amended—

(1) in section 361—

(A) by striking the section designation and heading and all that follows through "The Congress" and inserting the following:

"SEC. 361. FINDINGS; PURPOSE; DEFINITIONS.

"(a) FINDINGS.—Congress";

(B) in subsection (b), by striking "(b) It is" and inserting the following:

"(b) PURPOSE.—It is"; and

(C) by adding at the end the following:

"(c) DEFINITIONS.—In this part:";

(2) in section 366—

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(A) in paragraph (3)(B)(i), by striking "approved under section 367, and" ; and inserting "; and";

(B) in each of paragraphs (1) through (8), by inserting a paragraph heading, the text of which is comprised of the term defined in the paragraph; and

(C) by redesignating paragraphs (6) and (7) as paragraphs (7) and (6), respectively, and moving the paragraphs so as to appear in numerical order;

(3) by moving paragraphs (1) through (8) of section 366 (as so redesignated) so as to appear after subsection (c) of section 361 (as designated by paragraph (1)(C)); and

(4) by amending section 366 to read as follows:

"SEC. 366. STATE ENERGY SECURITY PLANS.

"(a) DEFINITIONS.—In this section:

"(1) BULK-POWER SYSTEM.—The term 'bulk-power system' has the meaning given the term in section 215(a) of the Federal Power Act (16 U.S.C. 824o(a)).

"(2) STATE ENERGY SECURITY PLAN.—The term 'State energy security plan' means a State energy security plan described in subsection (b).

"(b) FINANCIAL ASSISTANCE FOR STATE ENERGY SECURITY PLANS.—Federal financial assistance made available to a State under this part may be used for the development, implementation, review, and revision of a State energy security plan that—

"(1) assesses the existing circumstances in the State; and

"(2) proposes methods to strengthen the ability of the State, in consultation with owners and operators of energy infrastructure in the State—

"(A) to secure the energy infrastructure of the State against all physical and cybersecurity threats;

"(B)(i) to mitigate the risk of energy supply disruptions to the State; and

"(ii) to enhance the response to, and recovery from, energy disruptions; and

"(C) to ensure that the State has reliable, secure, and resilient energy infrastructure.

"(c) CONTENTS OF PLAN.—A State energy security plan shall—

"(1) address all energy sources and regulated and unregulated energy providers;

"(2) provide a State energy profile, including an assessment of energy production, transmission, distribution, and end-use;

"(3) address potential hazards to each energy sector or system, including—

"(A) physical threats and vulnerabilities; and

"(B) cybersecurity threats and vulnerabilities;

"(4) provide a risk assessment of energy infrastructure and cross-sector interdependencies;

"(5) provide a risk mitigation approach to enhance reliability and end-use resilience; and

"(6)(A) address—

"(i) multi-State and regional coordination, planning, and response; and

"(ii) coordination with Indian Tribes with respect to planning and response; and

"(B) to the extent practicable, encourage mutual assistance in cyber and physical response plans.

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"(d) COORDINATION.—In developing or revising a State energy security plan, the State energy office of the State shall coordinate, to the extent practicable, with—

"(1) the public utility or service commission of the State;

"(2) energy providers from the private and public sectors; and

"(3) other entities responsible for—

"(A) maintaining fuel or electric reliability; and

"(B) securing energy infrastructure.

"(e) FINANCIAL ASSISTANCE.—A State is not eligible to receive Federal financial assistance under this part for any purpose for a fiscal year unless the Governor of the State submits to the Secretary, with respect to that fiscal year—

"(1) a State energy security plan that meets the requirements of subsection (c); or

"(2) after an annual review, carried out by the Governor, of a State energy security plan—

"(A) any necessary revisions to the State energy security plan; or

"(B) a certification that no revisions to the State energy security plan are necessary.

"(f) TECHNICAL ASSISTANCE.—On request of the Governor of a State, the Secretary, in consultation with the Secretary of Homeland Security, may provide information, technical assistance, and other assistance in the development, implementation, or revision of a State energy security plan.

"(g) REQUIREMENT.—Each State receiving Federal financial assistance under this part shall provide reasonable assurance to the Secretary that the State has established policies and procedures designed to assure that the financial assistance will be used—

"(1) to supplement, and not to supplant, State and local funds; and

"(2) to the maximum extent practicable, to increase the amount of State and local funds that otherwise would be available, in the absence of the Federal financial assistance, for the implementation of a State energy security plan.

"(h) PROTECTION OF INFORMATION.—Information provided to, or collected by, the Federal Government pursuant to this section the disclosure of which the Secretary reasonably foresees could be detrimental to the physical security or cybersecurity of any electric utility or the bulk-power system—

"(1) shall be exempt from disclosure under section 552(b)(3) of title 5, United States Code; and

"(2) shall not be made available by any Federal agency, State, political subdivision of a State, or Tribal authority pursuant to any Federal, State, political subdivision of a State, or Tribal law, respectively, requiring public disclosure of information or records.

"(i) SUNSET.—The requirements of this section shall expire on October 31, 2025.".

(b) CLERICAL AMENDMENTS.—The table of contents of the Energy Policy and Conservation Act (Public Law 94–163; 89 Stat. 872) is amended—

(1) by striking the item relating to section 361 and inserting the following:

"Sec. 361. Findings; purpose; definitions."; and

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(2) by striking the item relating to section 366 and inserting the following:

"Sec. 366. State energy security plans.".

(c) CONFORMING AMENDMENTS.—

(1) Section 509(i)(3) of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z–8(i)(3)) is amended by striking "prescribed for such terms in section 366 of the Energy Policy and Conservation Act" and inserting "given the terms in section 361(c) of the Energy Policy and Conservation Act".

(2) Section 363 of the Energy Policy and Conservation Act (42 U.S.C. 6323) is amended—

(A) by striking subsection (e); and

(B) by redesignating subsection (f) as subsection (e).

(3) Section 451(i)(3) of the Energy Conservation and Production Act (42 U.S.C. 6881(i)(3)) is amended by striking "prescribed for such terms in section 366 of the Federal Energy Policy and Conservation Act" and inserting "given the terms in section 361(c) of the Energy Policy and Conservation Act".

SEC. 40109. STATE ENERGY PROGRAM.

(a) COLLABORATIVE TRANSMISSION SITING.—Section 362(c) of the Energy Policy and Conservation Act (42 U.S.C. 6322(c)) is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(7) the mandatory conduct of activities to support transmission and distribution planning, including—

"(A) support for local governments and Indian Tribes;

"(B) feasibility studies for transmission line routes and alternatives;

"(C) preparation of necessary project design and permits; and

"(D) outreach to affected stakeholders.".

(b) STATE ENERGY CONSERVATION PLANS.—Section 362(d) of the Energy Policy and Conservation Act (42 U.S.C. 6322(d)) is amended by striking paragraph (3) and inserting the following:

"(3) programs to increase transportation energy efficiency, including programs to help reduce carbon emissions in the transportation sector by 2050 and accelerate the use of alternative transportation fuels for, and the electrification of, State government vehicles, fleet vehicles, taxis and ridesharing services, mass transit, school buses, ferries, and privately owned passenger and medium- and heavy-duty vehicles;".

(c) AUTHORIZATION OF APPROPRIATIONS FOR STATE ENERGY PROGRAM.—Section 365 of the Energy Policy and Conservation Act (42 U.S.C. 6325) is amended by striking subsection (f) and inserting the following:

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to carry out this part $500,000,000 for the period of fiscal years 2022 through 2026.

"(2) DISTRIBUTION.—Amounts made available under paragraph (1)—

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"(A) shall be distributed to the States in accordance with the applicable distribution formula in effect on January 1, 2021; and

"(B) shall not be subject to the matching requirement described in the first proviso of the matter under the heading 'ENERGY CONSERVATION' under the heading 'DEPARTMENT OF ENERGY' in title II of the Department of the Interior and Related Agencies Appropriations Act, 1985 (42 U.S.C. 6323a).".

SEC. 40110. POWER MARKETING ADMINISTRATION TRANSMISSION BORROWING AUTHORITY.

(a) BORROWING AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (2), for the purposes of providing funds to assist in the financing of the construction, acquisition, and replacement of the Federal Columbia River Power System and to implement the authority of the Administrator of the Bonneville Power Administration (referred to in this section as the "Administrator") under the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839 et seq.), an additional $10,000,000,000 in borrowing authority is made available under the Federal Columbia River Transmission System Act (16 U.S.C. 838 et seq.), to remain outstanding at any 1 time.

(2) LIMITATION.—The obligation of additional borrowing authority under paragraph (1) shall not exceed $6,000,000,000 by fiscal year 2028.

(b) FINANCIAL PLAN.—

(1) IN GENERAL.—The Administrator shall issue an updated financial plan by the end of fiscal year 2022.

(2) REQUIREMENT.—As part of the process of issuing an updated financial plan under paragraph (1), the Administrator shall—

(A) consistent with asset management planning and sound business principles, consider projected and planned use and allocation of the borrowing authority of the Administrator across the mission responsibilities of the Bonneville Power Administration; and

(B) before issuing the final updated financial plan—

(i) engage, in a manner determined by the Administrator, with customers with respect to a draft of the updated plan; and

(ii) consider as a relevant factor any recommendations from customers regarding prioritization of asset investments.

(c) STAKEHOLDER ENGAGEMENT.—The Administrator shall—

(1) engage, in a manner determined by the Administrator, with customers and stakeholders with respect to the financial and cost management efforts of the Administrator through periodic program reviews; and

(2) to the maximum extent practicable, implement those policies that would be expected to be consistent with the lowest possible power and transmission rates consistent with sound business principles.

(d) REPAYMENT.—Any additional Treasury borrowing authority received under this section shall be fully repaid to the Treasury

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in a manner consistent with the applicable self-financed Federal budget accounts.

SEC. 40111. STUDY OF CODES AND STANDARDS FOR USE OF ENERGY STORAGE SYSTEMS ACROSS SECTORS.

(a) IN GENERAL.—The Secretary shall conduct a study of types and commercial applications of codes and standards applied to—

(1) stationary energy storage systems;

(2) mobile energy storage systems; and

(3) energy storage systems that move between stationary and mobile applications, such as electric vehicle batteries or batteries repurposed for new applications.

(b) PURPOSES.—The purposes of the study conducted under subsection (a) shall be—

(1) to identify barriers, foster collaboration, and increase conformity across sectors relating to—

(A) use of emerging energy storage technologies; and

(B) use cases, such as vehicle-to-grid integration;

(2) to identify all existing codes and standards that apply to energy storage systems;

(3) to identify codes and standards that require revision or enhancement;

(4) to enhance the safe implementation of energy storage systems; and

(5) to receive formal input from stakeholders regarding—

(A) existing codes and standards; and

(B) new or revised codes and standards.

(c) CONSULTATION.—In conducting the study under subsection (a), the Secretary shall consult with all relevant standards-developing organizations and other entities with expertise regarding energy storage system safety.

(d) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the results of the study conducted under subsection (a).

SEC. 40112. DEMONSTRATION OF ELECTRIC VEHICLE BATTERY SECOND-LIFE APPLICATIONS FOR GRID SERVICES.

Section 3201(c) of the Energy Act of 2020 (42 U.S.C. 17232(c)) is amended—

(1) in paragraph (1)—

(A) by striking the period at the end and inserting "; and";

(B) by striking "including at" and inserting the following: "including—

"(A) at"; and

(C) by adding at the end the following:

"(B) 1 project to demonstrate second-life applications of electric vehicle batteries as aggregated energy storage installations to provide services to the electric grid, in accordance with paragraph (3).";

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (2) the following:

"(3) DEMONSTRATION OF ELECTRIC VEHICLE BATTERY SECOND-LIFE APPLICATIONS FOR GRID SERVICES.—

"(A) IN GENERAL.—The Secretary shall enter into an agreement to carry out a project to demonstrate second-

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life applications of electric vehicle batteries as aggregated energy storage installations to provide services to the electric grid.

"(B) PURPOSES.—The purposes of the project under subparagraph (A) shall be—

"(i) to demonstrate power safety and the reliability of the applications demonstrated under the program;

"(ii) to demonstrate the ability of electric vehicle batteries—

"(I) to provide ancillary services for grid stability and management; and

"(II) to reduce the peak loads of homes and businesses;

"(iii) to extend the useful life of electric vehicle batteries and the components of electric vehicle batteries prior to the collection, recycling, and reprocessing of the batteries and components; and

"(iv) to increase acceptance of, and participation in, the use of second-life applications of electric vehicle batteries by utilities.

"(C) PRIORITY.—In selecting a project to carry out under subparagraph (A), the Secretary shall give priority to projects in which the demonstration of the applicable second-life applications is paired with 1 or more facilities that could particularly benefit from increased resiliency and lower energy costs, such as a multi-family affordable housing facility, a senior care facility, and a community health center.".

SEC. 40113. COLUMBIA BASIN POWER MANAGEMENT.

(a) DEFINITIONS.—In this section:

(1) ACCOUNT.—The term "Account" means the account established by subsection (b)(1).

(2) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Bonneville Power Administration.

(3) CANADIAN ENTITLEMENT.—The term "Canadian Entitlement" means the downstream power benefits that Canada is entitled to under Article V of the Treaty Relating to Cooperative Development of the Water Resources of the Columbia River Basin, signed at Washington January 17, 1961 (15 UST 1555; TIAS 5638).

(b) TRANSMISSION COORDINATION AND EXPANSION.—

(1) ESTABLISHMENT.—There is established in the Treasury an account for the purposes of making expenditures to increase bilateral transfers of renewable electric generation between the western United States and Canada.

(2) CRITERIA.—

(A) IN GENERAL.—The Administrator may make expenditures from the Account for activities to improve electric power system coordination by constructing electric power transmission facilities within the western United States that directly or indirectly facilitate non-carbon emitting electric power transactions between the western United States and Canada.

(B) APPLICATION.—Subparagraph (A) shall be effective after the later of—

(i) September 16, 2024; and

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(ii) the date on which the Canadian entitlement value calculation is terminated or reduced to the actual electric power value to the United States, as determined by the Administrator.

(3) CONSULTATION.—The Administrator shall consult with relevant electric utilities in Canada and appropriate regional transmission planning organizations in considering the construction of transmission activities under this subsection.

(4) AUTHORIZATION.—There is authorized to be appropriated to the Account a nonreimburseable amount equal to the aggregated amount of the Canadian Entitlement during the 5-year period preceding the date of enactment of this Act.

(c) INCREASED HYDROELECTRIC CAPACITY.—

(1) IN GENERAL.—The Commissioner of Reclamation shall rehabilitate and enhance the John W. Keys III Pump Generating Plant—

(A) to replace obsolete equipment;

(B) to maintain reliability and improve efficiency in system performance and operation;

(C) to create more hydroelectric power capacity in the Pacific Northwest; and

(D) to ensure the availability of water for irrigation in the event that Columbia River water flows from British Columbia into the United States are insufficient after September 16, 2024.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $100,000,000, which shall be nonreimburseable, to carry out this subsection.

(d) POWER COORDINATION STUDY.—

(1) IN GENERAL.—The Administrator shall conduct a study considering the potential hydroelectric power value to the Pacific Northwest of increasing the coordination of the operation of hydroelectric and water storage facilities on rivers located in the United States and Canada.

(2) CRITERIA.—The study conducted under paragraph (1) shall analyze—

(A) projected changes to the Pacific Northwest electricity supply;

(B) potential reductions in greenhouse gas emissions;

(C) any potential need to increase transmission capacity; and

(D) any other factor the Administrator considers to be relevant for increasing bilateral coordination.

(3) COORDINATION.—In conducting the study under paragraph (1), the Administrator shall coordinate, to the extent practicable, with—

(A) the British Columbia or a crown corporation owned by British Columbia;

(B) the Assistant Secretary;

(C) the Commissioner of Reclamation; and

(D) any public utility districts that operate hydroelectric projects on the mainstem of the Columbia River.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $10,000,000, which shall be nonreimburseable, to carry out this subsection.

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Subtitle B—Cybersecurity

SEC. 40121. ENHANCING GRID SECURITY THROUGH PUBLIC-PRIVATE PARTNERSHIPS.

(a) DEFINITIONS.—In this section:

(1) BULK-POWER SYSTEM; ELECTRIC RELIABILITY ORGANIZATION.—The terms "bulk-power system" and "Electric Reliability Organization" has the meaning given the terms in section 215(a) of the Federal Power Act (16 U.S.C. 824o(a)).

(2) ELECTRIC UTILITY; STATE REGULATORY AUTHORITY.—The terms "electric utility" and "State regulatory authority" have the meanings given the terms in section 3 of the Federal Power Act (16 U.S.C. 796).

(b) PROGRAM TO PROMOTE AND ADVANCE PHYSICAL SECURITY AND CYBERSECURITY OF ELECTRIC UTILITIES.—

(1) ESTABLISHMENT.—The Secretary, in coordination with the Secretary of Homeland Security and in consultation with, as the Secretary determines to be appropriate, the heads of other relevant Federal agencies, State regulatory authorities, industry stakeholders, and the Electric Reliability Organization, shall carry out a program—

(A) to develop, and provide for voluntary implementation of, maturity models, self-assessments, and auditing methods for assessing the physical security and cybersecurity of electric utilities;

(B) to assist with threat assessment and cybersecurity training for electric utilities;

(C) to provide technical assistance for electric utilities subject to the program;

(D) to provide training to electric utilities to address and mitigate cybersecurity supply chain management risks;

(E) to advance, in partnership with electric utilities, the cybersecurity of third-party vendors that manufacture components of the electric grid;

(F) to increase opportunities for sharing best practices and data collection within the electric sector; and

(G) to assist, in the case of electric utilities that own defense critical electric infrastructure (as defined in section 215A(a) of the Federal Power Act (16 U.S.C. 824o–1(a))), with full engineering reviews of critical functions and operations at both the utility and defense infrastructure levels—

(i) to identify unprotected avenues for cyber-enabled sabotage that would have catastrophic effects to national security; and

(ii) to recommend and implement engineering protections to ensure continued operations of identified critical functions even in the face of constant cyber attacks and achieved perimeter access by sophisticated adversaries.

(2) SCOPE.—In carrying out the program under paragraph (1), the Secretary shall—

(A) take into consideration—

(i) the different sizes of electric utilities; and

(ii) the regions that electric utilities serve;

(B) prioritize electric utilities with fewer available resources due to size or region; and

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(C) to the maximum extent practicable, use and leverage—

(i) existing Department and Department of Homeland Security programs; and

(ii) existing programs of the Federal agencies determined to be appropriate under paragraph (1).

(c) REPORT ON CYBERSECURITY OF DISTRIBUTION SYSTEMS.—Not later than 1 year after the date of enactment of this Act, the Secretary, in coordination with the Secretary of Homeland Security and in consultation with, as the Secretary determines to be appropriate, the heads of other Federal agencies, State regulatory authorities, and industry stakeholders, shall submit to Congress a report that assesses—

(1) priorities, policies, procedures, and actions for enhancing the physical security and cybersecurity of electricity distribution systems, including behind-the-meter generation, storage, and load management devices, to address threats to, and vulnerabilities of, electricity distribution systems; and

(2) the implementation of the priorities, policies, procedures, and actions assessed under paragraph (1), including—

(A) an estimate of potential costs and benefits of the implementation; and

(B) an assessment of any public-private cost-sharing opportunities.

(d) PROTECTION OF INFORMATION.—Information provided to, or collected by, the Federal Government pursuant to this section the disclosure of which the Secretary reasonably foresees could be detrimental to the physical security or cybersecurity of any electric utility or the bulk-power system—

(1) shall be exempt from disclosure under section 552(b)(3) of title 5, United States Code; and

(2) shall not be made available by any Federal agency, State, political subdivision of a State, or Tribal authority pursuant to any Federal, State, political subdivision of a State, or Tribal law, respectively, requiring public disclosure of information or records.

SEC. 40122. ENERGY CYBER SENSE PROGRAM.

(a) DEFINITIONS.—In this section:

(1) BULK-POWER SYSTEM.—The term "bulk-power system" has the meaning given the term in section 215(a) of the Federal Power Act (16 U.S.C. 824o(a)).

(2) PROGRAM.—The term "program" means the voluntary Energy Cyber Sense program established under subsection (b).

(b) ESTABLISHMENT.—The Secretary, in coordination with the Secretary of Homeland Security and in consultation with the heads of other relevant Federal agencies, shall establish a voluntary Energy Cyber Sense program to test the cybersecurity of products and technologies intended for use in the energy sector, including in the bulk-power system.

(c) PROGRAM REQUIREMENTS.—In carrying out subsection (b), the Secretary, in coordination with the Secretary of Homeland Security and in consultation with the heads of other relevant Federal agencies, shall—

(1) establish a testing process under the program to test the cybersecurity of products and technologies intended for

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use in the energy sector, including products relating to industrial control systems and operational technologies, such as supervisory control and data acquisition systems;

(2) for products and technologies tested under the program, establish and maintain cybersecurity vulnerability reporting processes and a related database that are integrated with Federal vulnerability coordination processes;

(3) provide technical assistance to electric utilities, product manufacturers, and other energy sector stakeholders to develop solutions to mitigate identified cybersecurity vulnerabilities in products and technologies tested under the program;

(4) biennially review products and technologies tested under the program for cybersecurity vulnerabilities and provide analysis with respect to how those products and technologies respond to and mitigate cyber threats;

(5) develop guidance that is informed by analysis and testing results under the program for electric utilities and other components of the energy sector for the procurement of products and technologies;

(6) provide reasonable notice to, and solicit comments from, the public prior to establishing or revising the testing process under the program;

(7) oversee the testing of products and technologies under the program; and

(8) consider incentives to encourage the use of analysis and results of testing under the program in the design of products and technologies for use in the energy sector.

(d) PROTECTION OF INFORMATION.—Information provided to, or collected by, the Federal Government pursuant to this section the disclosure of which the Secretary reasonably foresees could be detrimental to the physical security or cybersecurity of any component of the energy sector, including any electric utility or the bulk-power system—

(1) shall be exempt from disclosure under section 552(b)(3) of title 5, United States Code; and

(2) shall not be made available by any Federal agency, State, political subdivision of a State, or Tribal authority pursuant to any Federal, State, political subdivision of a State, or Tribal law, respectively, requiring public disclosure of information or records.

(e) FEDERAL GOVERNMENT LIABILITY.—Nothing in this section authorizes the commencement of an action against the United States with respect to the testing of a product or technology under the program.

SEC. 40123. INCENTIVES FOR ADVANCED CYBERSECURITY TECHNOLOGY INVESTMENT.

Part II of the Federal Power Act is amended by inserting after section 219 (16 U.S.C. 824s) the following:

"SEC. 219A. INCENTIVES FOR CYBERSECURITY INVESTMENTS.

"(a) DEFINITIONS.—In this section:

"(1) ADVANCED CYBERSECURITY TECHNOLOGY.—The term 'advanced cybersecurity technology' means any technology, operational capability, or service, including computer hardware, software, or a related asset, that enhances the security posture of public utilities through improvements in the ability to protect against, detect, respond to, or recover from a cybersecurity

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threat (as defined in section 102 of the Cybersecurity Act of 2015 (6 U.S.C. 1501)).

"(2) ADVANCED CYBERSECURITY TECHNOLOGY INFORMATION.—The term 'advanced cybersecurity technology information' means information relating to advanced cybersecurity technology or proposed advanced cybersecurity technology that is generated by or provided to the Commission or another Federal agency.

"(b) STUDY.—Not later than 180 days after the date of enactment of this section, the Commission, in consultation with the Secretary of Energy, the North American Electric Reliability Corporation, the Electricity Subsector Coordinating Council, and the National Association of Regulatory Utility Commissioners, shall conduct a study to identify incentive-based, including performance-based, rate treatments for the transmission and sale of electric energy subject to the jurisdiction of the Commission that could be used to encourage—

"(1) investment by public utilities in advanced cybersecurity technology; and

"(2) participation by public utilities in cybersecurity threat information sharing programs.

"(c) INCENTIVE-BASED RATE TREATMENT.—Not later than 1 year after the completion of the study under subsection (b), the Commission shall establish, by rule, incentive-based, including performance-based, rate treatments for the transmission of electric energy in interstate commerce and the sale of electric energy at wholesale in interstate commerce by public utilities for the purpose of benefitting consumers by encouraging—

"(1) investments by public utilities in advanced cybersecurity technology; and

"(2) participation by public utilities in cybersecurity threat information sharing programs.

"(d) FACTORS FOR CONSIDERATION.—In issuing a rule pursuant to this section, the Commission may provide additional incentives beyond those identified in subsection (c) in any case in which the Commission determines that an investment in advanced cybersecurity technology or information sharing program costs will reduce cybersecurity risks to—

"(1) defense critical electric infrastructure (as defined in section 215A(a)) and other facilities subject to the jurisdiction of the Commission that are critical to public safety, national defense, or homeland security, as determined by the Commission in consultation with—

"(A) the Secretary of Energy;

"(B) the Secretary of Homeland Security; and

"(C) other appropriate Federal agencies; and

"(2) facilities of small or medium-sized public utilities with limited cybersecurity resources, as determined by the Commission.

"(e) RATEPAYER PROTECTION.—

"(1) IN GENERAL.—Any rate approved under a rule issued pursuant to this section, including any revisions to that rule, shall be subject to the requirements of sections 205 and 206 that all rates, charges, terms, and conditions—

"(A) shall be just and reasonable; and

"(B) shall not be unduly discriminatory or preferential.

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"(2) PROHIBITION OF DUPLICATE RECOVERY.—Any rule issued pursuant to this section shall preclude rate treatments that allow unjust and unreasonable double recovery for advanced cybersecurity technology.

"(f) SINGLE-ISSUE RATE FILINGS.—The Commission shall permit public utilities to apply for incentive-based rate treatment under a rule issued under this section on a single-issue basis by submitting to the Commission a tariff schedule under section 205 that permits recovery of costs and incentives over the depreciable life of the applicable assets, without regard to changes in receipts or other costs of the public utility.

"(g) PROTECTION OF INFORMATION.—Advanced cybersecurity technology information that is provided to, generated by, or collected by the Federal Government under subsection (b), (c), or (f) shall be considered to be critical electric infrastructure information under section 215A.".

SEC. 40124. RURAL AND MUNICIPAL UTILITY ADVANCED CYBERSECURITY GRANT AND TECHNICAL ASSISTANCE PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ADVANCED CYBERSECURITY TECHNOLOGY.—The term "advanced cybersecurity technology" means any technology, operational capability, or service, including computer hardware, software, or a related asset, that enhances the security posture of electric utilities through improvements in the ability to protect against, detect, respond to, or recover from a cybersecurity threat (as defined in section 102 of the Cybersecurity Act of 2015 (6 U.S.C. 1501)).

(2) BULK-POWER SYSTEM.—The term "bulk-power system" has the meaning given the term in section 215(a) of the Federal Power Act (16 U.S.C. 824o(a)).

(3) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a rural electric cooperative;

(B) a utility owned by a political subdivision of a State, such as a municipally owned electric utility;

(C) a utility owned by any agency, authority, corporation, or instrumentality of 1 or more political subdivisions of a State;

(D) a not-for-profit entity that is in a partnership with not fewer than 6 entities described in subparagraph (A), (B), or (C); and

(E) an investor-owned electric utility that sells less than 4,000,000 megawatt hours of electricity per year.

(4) PROGRAM.—The term "Program" means the Rural and Municipal Utility Advanced Cybersecurity Grant and Technical Assistance Program established under subsection (b).

(b) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary, in coordination with the Secretary of Homeland Security and in consultation with the Federal Energy Regulatory Commission, the North American Electric Reliability Corporation, and the Electricity Subsector Coordinating Council, shall establish a program, to be known as the "Rural and Municipal Utility Advanced Cybersecurity Grant and Technical Assistance Program", to provide grants and technical assistance to, and enter into cooperative agreements with, eligible entities to protect against, detect, respond to, and recover from cybersecurity threats.

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(c) OBJECTIVES.—The objectives of the Program shall be—

(1) to deploy advanced cybersecurity technologies for electric utility systems; and

(2) to increase the participation of eligible entities in cybersecurity threat information sharing programs.

(d) AWARDS.—

(1) IN GENERAL.—The Secretary—

(A) shall award grants and provide technical assistance under the Program to eligible entities on a competitive basis;

(B) shall develop criteria and a formula for awarding grants and providing technical assistance under the Program;

(C) may enter into cooperative agreements with eligible entities that can facilitate the objectives described in subsection (c); and

(D) shall establish a process to ensure that all eligible entities are informed about and can become aware of opportunities to receive grants or technical assistance under the Program.

(2) PRIORITY FOR GRANTS AND TECHNICAL ASSISTANCE.—In awarding grants and providing technical assistance under the Program, the Secretary shall give priority to an eligible entity that, as determined by the Secretary—

(A) has limited cybersecurity resources;

(B) owns assets critical to the reliability of the bulk-power system; or

(C) owns defense critical electric infrastructure (as defined in section 215A(a) of the Federal Power Act (16 U.S.C. 824o–1(a))).

(e) PROTECTION OF INFORMATION.—Information provided to, or collected by, the Federal Government pursuant to this section the disclosure of which the Secretary reasonably foresees could be detrimental to the physical security or cybersecurity of any electric utility or the bulk-power system—

(1) shall be exempt from disclosure under section 552(b)(3) of title 5, United States Code; and

(2) shall not be made available by any Federal agency, State, political subdivision of a State, or Tribal authority pursuant to any Federal, State, political subdivision of a State, or Tribal law, respectively, requiring public disclosure of information or records.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $250,000,000 for the period of fiscal years 2022 through 2026.

SEC. 40125. ENHANCED GRID SECURITY.

(a) DEFINITIONS.—In this section:

(1) ELECTRIC UTILITY.—The term "electric utility" has the meaning given the term in section 3 of the Federal Power Act (16 U.S.C. 796).

(2) E-ISAC.—The term "E-ISAC" means the Electricity Information Sharing and Analysis Center.

(b) CYBERSECURITY FOR THE ENERGY SECTOR RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—The Secretary, in coordination with the Secretary of Homeland Security and in consultation with, as

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determined appropriate, other Federal agencies, the energy sector, the States, Indian Tribes, Tribal organizations, territories or freely associated states, and other stakeholders, shall develop and carry out a program—

(A) to develop advanced cybersecurity applications and technologies for the energy sector—

(i) to identify and mitigate vulnerabilities, including—

(I) dependencies on other critical infrastructure;

(II) impacts from weather and fuel supply;

(III) increased dependence on inverter-based technologies; and

(IV) vulnerabilities from unpatched hardware and software systems; and

(ii) to advance the security of field devices and third-party control systems, including—

(I) systems for generation, transmission, distribution, end use, and market functions;

(II) specific electric grid elements including advanced metering, demand response, distribution, generation, and electricity storage;

(III) forensic analysis of infected systems;

(IV) secure communications; and

(V) application of in-line edge security solutions;

(B) to leverage electric grid architecture as a means to assess risks to the energy sector, including by implementing an all-hazards approach to communications infrastructure, control systems architecture, and power systems architecture;

(C) to perform pilot demonstration projects with the energy sector to gain experience with new technologies;

(D) to develop workforce development curricula for energy sector-related cybersecurity; and

(E) to develop improved supply chain concepts for secure design of emerging digital components and power electronics.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this subsection $250,000,000 for the period of fiscal years 2022 through 2026.

(c) ENERGY SECTOR OPERATIONAL SUPPORT FOR CYBERRESILIENCE PROGRAM.—

(1) IN GENERAL.—The Secretary may develop and carry out a program—

(A) to enhance and periodically test—

(i) the emergency response capabilities of the Department; and

(ii) the coordination of the Department with other agencies, the National Laboratories, and private industry;

(B) to expand cooperation of the Department with the intelligence community for energy sector-related threat collection and analysis;

(C) to enhance the tools of the Department and E-ISAC for monitoring the status of the energy sector;

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(D) to expand industry participation in E-ISAC; and

(E) to provide technical assistance to small electric utilities for purposes of assessing and improving cybermaturity levels and addressing gaps identified in the assessment.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this subsection $50,000,000 for the period of fiscal years 2022 through 2026.

(d) MODELING AND ASSESSING ENERGY INFRASTRUCTURE RISK.—

(1) IN GENERAL.—The Secretary, in coordination with the Secretary of Homeland Security, shall develop and carry out an advanced energy security program to secure energy networks, including—

(A) electric networks;

(B) natural gas networks; and

(C) oil exploration, transmission, and delivery networks.

(2) SECURITY AND RESILIENCY OBJECTIVE.—The objective of the program developed under paragraph (1) is to increase the functional preservation of electric grid operations or natural gas and oil operations in the face of natural and human-made threats and hazards, including electric magnetic pulse and geomagnetic disturbances.

(3) ELIGIBLE ACTIVITIES.—In carrying out the program developed under paragraph (1), the Secretary may—

(A) develop capabilities to identify vulnerabilities and critical components that pose major risks to grid security if destroyed or impaired;

(B) provide modeling at the national level to predict impacts from natural or human-made events;

(C) add physical security to the cybersecurity maturity model;

(D) conduct exercises and assessments to identify and mitigate vulnerabilities to the electric grid, including providing mitigation recommendations;

(E) conduct research on hardening solutions for critical components of the electric grid;

(F) conduct research on mitigation and recovery solutions for critical components of the electric grid; and

(G) provide technical assistance to States and other entities for standards and risk analysis.

(4) SAVINGS PROVISION.—Nothing in this section authorizes new regulatory requirements.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this subsection $50,000,000 for the period of fiscal years 2022 through 2026.

SEC. 40126. CYBERSECURITY PLAN.

(a) IN GENERAL.—The Secretary may require, as the Secretary determines appropriate, a recipient of any award or other funding under this division—

(1) to submit to the Secretary, prior to the issuance of the award or other funding, a cybersecurity plan that demonstrates the cybersecurity maturity of the recipient in the

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context of the project for which that award or other funding was provided; and

(2) establish a plan for maintaining and improving cybersecurity throughout the life of the proposed solution of the project.

(b) CONTENTS OF CYBERSECURITY PLAN.—A cybersecurity plan described in subsection (a) shall, at a minimum, describe how the recipient described in that subsection—

(1) plans to maintain cybersecurity between networks, systems, devices, applications, or components—

(A) within the proposed solution of the project; and

(B) at the necessary external interfaces at the proposed solution boundaries;

(2) will perform ongoing evaluation of cybersecurity risks to address issues as the issues arise throughout the life of the proposed solution;

(3) will report known or suspected network or system compromises of the project to the Secretary; and

(4) will leverage applicable cybersecurity programs of the Department, including cyber vulnerability testing and security engineering evaluations.

(c) ADDITIONAL GUIDANCE.—Each recipient described in subsection (a) should—

(1) maximize the use of open guidance and standards, including, wherever possible—

(A) the Cybersecurity Capability Maturity Model of the Department (or a successor model); and

(B) the Framework for Improving Critical Infrastructure Cybersecurity of the National Institute of Standards and Technology; and

(2) document —

(A) any deviation from open standards; and

(B) the utilization of proprietary standards where the recipient determines that such deviation necessary.

(d) COORDINATION.—The Office of Cybersecurity, Energy Security, and Emergency Response of the Department shall review each cybersecurity plan submitted under subsection (a) to ensure integration with Department research, development, and demonstration programs.

(e) PROTECTION OF INFORMATION.—Information provided to, or collected by, the Federal Government pursuant to this section the disclosure of which the Secretary reasonably foresees could be detrimental to the physical security or cybersecurity of any electric utility or the bulk-power system—

(1) shall be exempt from disclosure under section 552(b)(3) of title 5, United States Code; and

(2) shall not be made available by any Federal agency, State, political subdivision of a State, or Tribal authority pursuant to any Federal, State, political subdivision of a State, or Tribal law, respectively, requiring public disclosure of information or records.

SEC. 40127. SAVINGS PROVISION.

Nothing in this subtitle affects the authority, existing on the day before the date of enactment of this Act, of any other Federal department or agency, including the authority provided to the Secretary of Homeland Security and the Director of the Cybersecurity

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and Infrastructure Security Agency in title XXII of the Homeland Security Act of 2002 (6 U.S.C. 651 et seq.).

TITLE II—SUPPLY CHAINS FOR CLEAN ENERGY TECHNOLOGIES

SEC. 40201. EARTH MAPPING RESOURCES INITIATIVE.

(a) DEFINITION OF CRITICAL MINERAL.—In this section, the term "critical mineral" has the meaning given the term in section 7002(a) of the Energy Act of 2020 (30 U.S.C. 1606(a)).

(b) ESTABLISHMENT.—There is established within the United States Geological Survey an initiative, to be known as the "Earth Mapping Resources Initiative" (referred to in this section as the "Initiative").

(c) PURPOSE.—The purpose of the Initiative shall be to accelerate efforts to carry out the fundamental resources and mapping mission of the United States Geological Survey by—

(1) providing integrated topographic, geologic, geochemical, and geophysical mapping;

(2) accelerating the integration and consolidation of geospatial and resource data; and

(3) providing interpretation of subsurface and above-ground mineral resources data.

(d) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—In carrying out the Initiative, the Director of the United States Geological Survey may enter into cooperative agreements with State geological surveys.

(2) EFFECT.—Nothing in paragraph (1) precludes the Director of the United States Geological Survey from using existing contracting authorities in carrying out the Initiative.

(e) COMPREHENSIVE MAPPING MODERNIZATION.—

(1) IN GENERAL.—Not later than 10 years after the date of enactment of this Act, the Initiative shall complete an initial comprehensive national modern surface and subsurface mapping and data integration effort.

(2) APPROACH.—In carrying out paragraph (1) with regard to minerals, mineralization, and mineral deposits, the Initiative shall focus on the full range of minerals, using a whole ore body approach rather than a single commodity approach, to emphasize all of the recoverable critical minerals in a given surface or subsurface deposit.

(3) PRIORITY.—In carrying out paragraph (1) with regard to minerals, mineralization, and mineral deposits, the Initiative shall prioritize mapping and assessing critical minerals.

(4) INCLUSIONS.—In carrying out paragraph (1), the Initiative shall also—

(A) map and collect data for areas containing mine waste to increase understanding of above-ground critical mineral resources in previously disturbed areas; and

(B) provide for analysis of samples, including samples within the National Geological and Geophysical Data Preservation Program established under section 351(b) of the Energy Policy Act of 2005 (42 U.S.C. 15908(b)) for the occurrence of critical minerals.

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(f) AVAILABILITY.—The Initiative shall make the geospatial data and metadata gathered by the Initiative under subsection (e)(1) electronically publicly accessible on an ongoing basis.

(g) INTEGRATION OF DATA SOURCES.—The Initiative shall integrate data sources, including data from—

(1) the National Cooperative Geologic Mapping Program established by section 4(a)(1) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31c(a)(1));

(2) the National Geological and Geophysical Data Preservation Program established under section 351(b) of the Energy Policy Act of 2005 (42 U.S.C. 15908(b));

(3) the USMIN Mineral Deposit Database of the United States Geological Survey;

(4) the 3D Elevation Program established under section 5(a) of the National Landslide Preparedness Act (43 U.S.C. 3104(a)); and

(5) other relevant sources, including sources providing geothermal resources data.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $320,000,000 for the period of fiscal years 2022 through 2026, to remain available until expended.

SEC. 40202. NATIONAL COOPERATIVE GEOLOGIC MAPPING PROGRAM.

(a) IN GENERAL.—Section 4(d) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31c(d)) is amended by adding at the end the following:

"(4) ABANDONED MINE LAND AND MINE WASTE COMPONENT.—

"(A) IN GENERAL.—The geologic mapping program shall include an abandoned mine land and mine waste geologic mapping component, the objective of which shall be to establish the geologic framework of abandoned mine land and other land containing mine waste.

"(B) MAPPING PRIORITIES.—For the component described in subparagraph (A), the priority shall be mapping abandoned mine land and other land containing mine waste where multiple critical mineral (as defined in section 7002(a) of the Energy Act of 2020 (30 U.S.C. 1606(a))) and metal commodities are anticipated to be present, rather than single mineral resources.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 9(a) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31h(a)) is amended by striking "2023" and inserting "2031".

SEC. 40203. NATIONAL GEOLOGICAL AND GEOPHYSICAL DATA PRESERVATION PROGRAM.

Section 351(b) of the Energy Policy Act of 2005 (42 U.S.C. 15908(b)) is amended—

(1) in paragraph (2), by striking "and" after the semicolon;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(4) to provide for preservation of samples to track geochemical signatures from critical mineral (as defined in section 7002(a) of the Energy Act of 2020 (30 U.S.C. 1606(a))) ore bodies for use in provenance tracking frameworks.".

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SEC. 40204. USGS ENERGY AND MINERALS RESEARCH FACILITY.

(a) ESTABLISHMENT.—The Director of the United States Geological Survey (referred to in this section as the "Director"), shall fund, through a cooperative agreement with an academic partner, the design, construction, and tenant build-out of a facility to support energy and minerals research and appurtenant associated structures.

(b) OWNERSHIP.—The United States Geological Survey shall retain ownership of the facility and associated structures described in subsection (a).

(c) AGREEMENTS.—The Director may enter into agreements with, and to collect and expend funds or in-kind contributions from, academic, Federal, State, or other tenants over the life of the facility described in subsection (a) for the purposes of—

(1) facility planning;
(2) design;
(3) maintenance;
(4) operation; or
(5) facility improvements.

(d) LEASES.—The Director may enter into a lease or other agreement with the academic partner with which the Director has entered into a cooperative agreement under subsection (a), at no cost to the Federal Government, to obtain land on which to construct the facility described in that subsection for a term of not less than 99 years.

(e) REPORTS.—The Director shall submit to Congress annual reports on—

(1) the facility described in subsection (a); and
(2) the authorities used under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Interior to carry out this section $167,000,000 for fiscal year 2022, to remain available until expended.

SEC. 40205. RARE EARTH ELEMENTS DEMONSTRATION FACILITY.

Section 7001 of the Energy Act of 2020 (42 U.S.C. 13344) is amended—

(1) in subsection (b), by inserting "and annually thereafter while the facility established under subsection (c) remains in operation," after "enactment of this Act,";
(2) by redesignating subsection (c) as subsection (d); and
(3) by inserting after subsection (b) the following:

"(c) RARE EARTH DEMONSTRATION FACILITY.—

"(1) ESTABLISHMENT.—In coordination with the research program under subsection (a)(1)(A), the Secretary shall fund, through an agreement with an academic partner, the design, construction, and build-out of a facility to demonstrate the commercial feasibility of a full-scale integrated rare earth element extraction and separation facility and refinery.

"(2) FACILITY ACTIVITIES.—The facility established under paragraph (1) shall—

"(A) provide environmental benefits through use of feedstock derived from acid mine drainage, mine waste, or other deleterious material;

"(B) separate mixed rare earth oxides into pure oxides of each rare earth element;

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"(C) refine rare earth oxides into rare earth metals; and

"(D) provide for separation of rare earth oxides and refining into rare earth metals at a single site.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this subsection $140,000,000 for fiscal year 2022, to remain available until expended.".

SEC. 40206. CRITICAL MINERALS SUPPLY CHAINS AND RELIABILITY.

(a) DEFINITION OF CRITICAL MINERAL.—In this section, the term "critical mineral" has the meaning given the term in section 7002(a) of the Energy Act of 2020 (30 U.S.C. 1606(a)).

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) critical minerals are fundamental to the economy, competitiveness, and security of the United States;

(2) many critical minerals are only economic to recover when combined with the production of a host mineral;

(3) to the maximum extent practicable, the critical mineral needs of the United States should be satisfied by minerals responsibly produced and recycled in the United States; and

(4) the Federal permitting process has been identified as an impediment to mineral production and the mineral security of the United States.

(c) FEDERAL PERMITTING AND REVIEW PERFORMANCE IMPROVEMENTS.—To improve the quality and timeliness of Federal permitting and review processes with respect to critical mineral production on Federal land, the Secretary of the Interior, acting through the Director of the Bureau of Land Management, and the Secretary of Agriculture, acting through the Chief of the Forest Service (referred to in this section as the "Secretaries"), to the maximum extent practicable, shall complete the Federal permitting and review processes with maximum efficiency and effectiveness, while supporting vital economic growth, by—

(1) establishing and adhering to timelines and schedules for the consideration of, and final decisions regarding, applications, operating plans, leases, licenses, permits, and other use authorizations for critical mineral-related activities on Federal land;

(2) establishing clear, quantifiable, and temporal permitting performance goals and tracking progress against those goals;

(3) engaging in early collaboration among agencies, project sponsors, and affected stakeholders—

(A) to incorporate and address the interests of those parties; and

(B) to minimize delays;

(4) ensuring transparency and accountability by using cost-effective information technology to collect and disseminate information regarding individual projects and agency performance;

(5) engaging in early and active consultation with State, local, and Tribal governments—

(A) to avoid conflicts or duplication of effort;

(B) to resolve concerns; and

(C) to allow for concurrent, rather than sequential, reviews;

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(6) providing demonstrable improvements in the performance of Federal permitting and review processes, including lower costs and more timely decisions;

(7) expanding and institutionalizing Federal permitting and review process improvements that have proven effective;

(8) developing mechanisms to better communicate priorities and resolve disputes among agencies at the national, regional, State, and local levels; and

(9) developing other practices, such as preapplication procedures.

(d) REVIEW AND REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretaries shall submit to Congress a report that—

(1) identifies additional measures, including regulatory and legislative proposals, if appropriate, that would increase the timeliness of permitting activities for the exploration and development of domestic critical minerals;

(2) identifies options, including cost recovery paid by permit applicants, for ensuring adequate staffing and training of Federal entities and personnel responsible for the consideration of applications, operating plans, leases, licenses, permits, and other use authorizations for critical mineral-related activities on Federal land;

(3) quantifies the period of time typically required to complete each step associated with the development and processing of applications, operating plans, leases, licenses, permits, and other use authorizations for critical mineral-related activities on Federal land, including by—

(A) calculating the range, the mean, the median, the variance, and other statistical measures or representations of the period of time; and

(B) taking into account other aspects that affect the period of time that are outside the control of the Executive branch, such as judicial review, applicant decisions, or State and local government involvement; and

(4) describes actions carried out pursuant to subsection (c).

(e) PERFORMANCE METRIC.—Not later than 90 days after the date of submission of the report under subsection (d), and after providing public notice and an opportunity to comment, the Secretaries, using as a baseline the period of time quantified under paragraph (3) of that subsection, shall develop and publish a performance metric for evaluating the progress made by the Executive branch to expedite the permitting of activities that will increase exploration for, and development of, domestic critical minerals, while maintaining environmental standards.

(f) ANNUAL REPORTS.—Not later than the date on which the President submits the first budget of the President under section 1105 of title 31, United States Code, after publication of the performance metric required under subsection (e), and annually thereafter, the Secretaries shall submit to Congress a report that—

(1) summarizes the implementation of recommendations, measures, and options identified in paragraphs (1) and (2) of subsection (d);

(2) using the performance metric developed under subsection (e), describes progress made by the Executive branch, as compared to the baseline developed pursuant to subsection

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(d)(3), in expediting the permitting of activities that will increase exploration for, and development of, domestic critical minerals; and

(3) compares the United States to other countries in terms of permitting efficiency and any other criteria relevant to the globally competitive critical minerals industry.

(g) INDIVIDUAL PROJECTS.—Each year, using data contained in the reports submitted under subsection (f), the Director of the Office of Management and Budget shall prioritize inclusion of individual critical mineral projects on the website operated by the Office of Management and Budget in accordance with section 1122 of title 31, United States Code.

SEC. 40207. BATTERY PROCESSING AND MANUFACTURING.

(a) DEFINITIONS.—In this section:

(1) ADVANCED BATTERY.—The term "advanced battery" means a battery that consists of a battery cell that can be integrated into a module, pack, or system to be used in energy storage applications, including electric vehicles and the electric grid.

(2) ADVANCED BATTERY COMPONENT.—

(A) IN GENERAL.—The term "advanced battery component" means a component of an advanced battery.

(B) INCLUSIONS.—The term "advanced battery component" includes materials, enhancements, enclosures, anodes, cathodes, electrolytes, cells, and other associated technologies that comprise an advanced battery.

(3) BATTERY MATERIAL.—The term "battery material" means the raw and processed form of a mineral, metal, chemical, or other material used in an advanced battery component.

(4) ELIGIBLE ENTITY.—The term "eligible entity" means an entity described in any of paragraphs (1) through (5) of section 989(b) of the Energy Policy Act of 2005 (42 U.S.C. 16353(b)).

(5) FOREIGN ENTITY OF CONCERN.—The term "foreign entity of concern" means a foreign entity that is—

(A) designated as a foreign terrorist organization by the Secretary of State under section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a));

(B) included on the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control of the Department of the Treasury (commonly known as the "SDN list");

(C) owned by, controlled by, or subject to the jurisdiction or direction of a government of a foreign country that is a covered nation (as defined in section 2533c(d) of title 10, United States Code);

(D) alleged by the Attorney General to have been involved in activities for which a conviction was obtained under—

(i) chapter 37 of title 18, United States Code (commonly known as the "Espionage Act");

(ii) section 951 or 1030 of title 18, United States Code;

(iii) chapter 90 of title 18, United States Code (commonly known as the "Economic Espionage Act of 1996");

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(iv) the Arms Export Control Act (22 U.S.C. 2751 et seq.);

(v) section 224, 225, 226, 227, or 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2274, 2275, 2276, 2277, and 2284);

(vi) the Export Control Reform Act of 2018 (50 U.S.C. 4801 et seq.); or

(vii) the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.); or

(E) determined by the Secretary, in consultation with the Secretary of Defense and the Director of National Intelligence, to be engaged in unauthorized conduct that is detrimental to the national security or foreign policy of the United States.

(6) MANUFACTURING.—The term "manufacturing", with respect to an advanced battery and an advanced battery component, means the industrial and chemical steps taken to produce that advanced battery or advanced battery component, respectively.

(7) PROCESSING.—The term "processing", with respect to battery material, means the refining of materials, including the treating, baking, and coating processes used to convert raw products into constituent materials employed directly in advanced battery manufacturing.

(8) RECYCLING.—The term "recycling" means the recovery of materials from advanced batteries to be reused in similar applications, including the extracting, processing, and recoating of battery materials and advanced battery components.

(b) BATTERY MATERIAL PROCESSING GRANTS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish within the Office of Fossil Energy a program, to be known as the "Battery Material Processing Grant Program" (referred to in this subsection as the "program"), under which the Secretary shall award grants in accordance with this subsection.

(2) PURPOSES.—The purposes of the program are—

(A) to ensure that the United States has a viable battery materials processing industry to supply the North American battery supply chain;

(B) to expand the capabilities of the United States in advanced battery manufacturing;

(C) to enhance national security by reducing the reliance of the United States on foreign competitors for critical materials and technologies; and

(D) to enhance the domestic processing capacity of minerals necessary for battery materials and advanced batteries.

(3) GRANTS.—

(A) IN GENERAL.—Under the program, the Secretary shall award grants to eligible entities—

(i) to carry out 1 or more demonstration projects in the United States for the processing of battery materials;

(ii) to construct 1 or more new commercial-scale battery material processing facilities in the United States; and

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(iii) to retool, retrofit, or expand 1 or more existing battery material processing facilities located in the United States and determined qualified by the Secretary.

(B) AMOUNT LIMITATION.—The amount of a grant awarded under the program shall be not less than—

(i) $50,000,000 for an eligible entity carrying out 1 or more projects described in subparagraph (A)(i);

(ii) $100,000,000 for an eligible entity carrying out 1 or more projects described in subparagraph (A)(ii); and

(iii) $50,000,000 for an eligible entity carrying out 1 or more projects described in subparagraph (A)(iii).

(C) PRIORITY; CONSIDERATION.—In awarding grants to eligible entities under the program, the Secretary shall—

(i) give priority to an eligible entity that—

(I) is located and operates in the United States;

(II) is owned by a United States entity;

(III) deploys North American-owned intellectual property and content;

(IV) represents consortia or industry partnerships; and

(V) will not use battery material supplied by or originating from a foreign entity of concern; and

(ii) take into consideration whether a project—

(I) provides workforce opportunities in low- and moderate-income communities;

(II) encourages partnership with universities and laboratories to spur innovation and drive down costs;

(III) partners with Indian Tribes; and

(IV) takes into account—

(aa) greenhouse gas emissions reductions and energy efficient battery material processing opportunities throughout the manufacturing process; and

(bb) supply chain logistics.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out the program $3,000,000,000 for the period of fiscal years 2022 through 2026, to remain available until expended.

(c) BATTERY MANUFACTURING AND RECYCLING GRANTS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish within the Office of Energy Efficiency and Renewable Energy a battery manufacturing and recycling grant program (referred to in this subsection as the "program").

(2) PURPOSE.—The purpose of the program is to ensure that the United States has a viable domestic manufacturing and recycling capability to support and sustain a North American battery supply chain.

(3) GRANTS.—

(A) IN GENERAL.—Under the program, the Secretary shall award grants to eligible entities—

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(i) to carry out 1 or more demonstration projects for advanced battery component manufacturing, advanced battery manufacturing, and recycling;

(ii) to construct 1 or more new commercial-scale advanced battery component manufacturing, advanced battery manufacturing, or recycling facilities in the United States; and

(iii) to retool, retrofit, or expand 1 or more existing facilities located in the United States and determined qualified by the Secretary for advanced battery component manufacturing, advanced battery manufacturing, and recycling.

(B) AMOUNT LIMITATION.—The amount of a grant awarded under the program shall be not less than—

(i) $50,000,000 for an eligible entity carrying out 1 or more projects described in subparagraph (A)(i);

(ii) $100,000,000 for an eligible entity carrying out 1 or more projects described in subparagraph (A)(ii); and

(iii) $50,000,000 for an eligible entity carrying out 1 or more projects described in subparagraph (A)(iii).

(C) PRIORITY; CONSIDERATION.—In awarding grants to eligible entities under the program, the Secretary shall—

(i) give priority to an eligible entity that—

(I) is located and operates in the United States;

(II) is owned by a United States entity;

(III) deploys North American-owned intellectual property and content;

(IV) represents consortia or industry partnerships; and

(V)(aa) if the eligible entity will use the grant for advanced battery component manufacturing, will not use battery material supplied by or originating from a foreign entity of concern; or

(bb) if the eligible entity will use the grant for battery recycling, will not export recovered critical materials to a foreign entity of concern; and

(ii) take into consideration whether a project—

(I) provides workforce opportunities in low- and moderate-income or rural communities;

(II) provides workforce opportunities in communities that have lost jobs due to the displacements of fossil energy jobs;

(III) encourages partnership with universities and laboratories to spur innovation and drive down costs;

(IV) partners with Indian Tribes;

(V) takes into account—

(aa) greenhouse gas emissions reductions and energy efficient battery material processing opportunities throughout the manufacturing process; and

(bb) supply chain logistics; and

(VI) utilizes feedstock produced in the United States.

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(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out the program $3,000,000,000 for the period of fiscal years 2022 through 2026, to remain available until expended.

(d) REPORTING REQUIREMENTS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on the grant programs established under subsections (b) and (c), including, with respect to each grant program, a description of—

(1) the number of grant applications received;

(2) the number of grants awarded and the amount of each award;

(3) the purpose and status of each project carried out using a grant; and

(4) any other information the Secretary determines necessary.

(e) LITHIUM-ION BATTERY RECYCLING PRIZE COMPETITION.—

(1) IN GENERAL.—The Secretary shall continue to carry out the Lithium-Ion Battery Recycling Prize Competition of the Department established pursuant to section 24 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3719) (referred to in this subsection as the "competition").

(2) AUTHORIZATION OF APPROPRIATIONS FOR PILOT PROJECTS.—

(A) IN GENERAL.—There is authorized to be appropriated to the Secretary to carry out Phase III of the competition, $10,000,000 for fiscal year 2022, to remain available until expended.

(B) USE OF FUNDS.—The Secretary may use amounts made available under subparagraph (A)—

(i) to increase the number of winners of Phase III of the competition;

(ii) to increase the amount awarded to each winner of Phase III of the competition; and

(iii) to carry out any other activity that is consistent with the goals of Phase III of the competition, as determined by the Secretary.

(f) BATTERY AND CRITICAL MINERAL RECYCLING.—

(1) DEFINITIONS.—In this subsection:

(A) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(B) BATTERY.—The term "battery" means a device that—

(i) consists of 1 or more electrochemical cells that are electrically connected; and

(ii) is designed to store and deliver electric energy.

(C) BATTERY PRODUCER.—The term "battery producer" means, with respect to a covered battery or covered battery-containing product that is sold, offered for sale, or distributed for sale in the United States, including through retail, wholesale, business-to-business, and online sale, the following applicable entity:

(i) A person who—

(I) manufactures the covered battery or covered battery-containing product; and

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(II) sells or offers for sale the covered battery or covered battery-containing product under the brand of that person.

(ii) If there is no person described in clause (i) with respect to the covered battery or covered battery-containing product, the owner or licensee of the brand under which the covered battery or covered battery-containing product is sold, offered for sale, or distributed, regardless of whether the trademark of the brand is registered.

(iii) If there is no person described in clause (i) or (ii) with respect to the covered battery or covered battery-containing product, a person that imports the covered battery or covered battery-containing product into the United States for sale or distribution.

(D) COVERED BATTERY.—The term "covered battery" means a new or unused primary battery or rechargeable battery.

(E) COVERED BATTERY-CONTAINING PRODUCT.—The term "covered battery-containing product" means a new or unused product that contains or is packaged with a primary battery or rechargeable battery.

(F) CRITICAL MINERAL.—The term "critical mineral" has the meaning given the term in section 7002(a) of the Energy Act of 2020 (30 U.S.C. 1606(a)).

(G) PRIMARY BATTERY.—The term "primary battery" means a nonrechargeable battery that weighs not more than 4.4 pounds, including an alkaline, carbon-zinc, and lithium metal battery.

(H) RECHARGEABLE BATTERY.—

(i) IN GENERAL.—The term "rechargeable battery" means a battery that—

(I) contains 1 or more voltaic or galvanic cells that are electrically connected to produce electric energy;

(II) is designed to be recharged;

(III) weighs not more than 11 pounds; and

(IV) has a watt-hour rating of not more than 300 watt-hours.

(ii) EXCLUSIONS.—The term "rechargeable battery" does not include a battery that—

(I) contains electrolyte as a free liquid; or

(II) employs lead-acid technology, unless that battery is sealed and does not contain electrolyte as a free liquid.

(I) RECYCLING.—The term "recycling" means the series of activities—

(i) during which recyclable materials are processed into specification-grade commodities, and consumed as raw-material feedstock, in lieu of virgin materials, in the manufacturing of new products;

(ii) that may include collection, processing, and brokering; and

(iii) that result in subsequent consumption by a materials manufacturer, including for the manufacturing of new products.

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(2) BATTERY RECYCLING RESEARCH, DEVELOPMENT, AND DEMONSTRATION GRANTS.—

(A) IN GENERAL.—The Secretary, in coordination with the Administrator, shall award multiyear grants to eligible entities for research, development, and demonstration projects to create innovative and practical approaches to increase the reuse and recycling of batteries, including by addressing—

(i) recycling activities;

(ii) the development of methods to promote the design and production of batteries that take into full account and facilitate the dismantling, reuse, recovery, and recycling of battery components and materials;

(iii) strategies to increase consumer acceptance of, and participation in, the recycling of batteries;

(iv) the extraction or recovery of critical minerals from batteries that are recycled;

(v) the integration of increased quantities of recycled critical minerals in batteries and other products to develop markets for recycled battery materials and critical minerals;

(vi) safe disposal of waste materials and components recovered during the recycling process;

(vii) the protection of the health and safety of all persons involved in, or in proximity to, recycling and reprocessing activities, including communities located near recycling and materials reprocessing facilities;

(viii) mitigation of environmental impacts that arise from recycling batteries, including disposal of toxic reagents and byproducts related to recycling processes;

(ix) protection of data privacy associated with collected covered battery-containing products;

(x) the optimization of the value of material derived from recycling batteries; and

(xi) the cost-effectiveness and benefits of the reuse and recycling of batteries and critical minerals.

(B) ELIGIBLE ENTITIES.—The Secretary, in coordination with the Administrator, may award a grant under subparagraph (A) to—

(i) an institution of higher education;

(ii) a National Laboratory;

(iii) a Federal research agency;

(iv) a State research agency;

(v) a nonprofit organization;

(vi) an industrial entity;

(vii) a manufacturing entity;

(viii) a private battery-collection entity;

(ix) an entity operating 1 or more battery recycling activities;

(x) a State or municipal government entity;

(xi) a battery producer;

(xii) a battery retailer; or

(xiii) a consortium of 2 or more entities described in clauses (i) through (xii).

(C) APPLICATIONS.—

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(i) IN GENERAL.—To be eligible to receive a grant under subparagraph (A), an eligible entity described in subparagraph (B) shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(ii) CONTENTS.—An application submitted under clause (i) shall describe how the project will promote collaboration among—

(I) battery producers and manufacturers;

(II) battery material and equipment manufacturers;

(III) battery recyclers, collectors, and refiners; and

(IV) retailers.

(D) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this paragraph $60,000,000 for the period of fiscal years 2022 through 2026.

(3) STATE AND LOCAL PROGRAMS.—

(A) IN GENERAL.—The Secretary, in coordination with the Administrator, shall establish a program under which the Secretary shall award grants, on a competitive basis, to States and units of local government to assist in the establishment or enhancement of State battery collection, recycling, and reprocessing programs.

(B) NON-FEDERAL COST SHARE.—The non-Federal share of the cost of a project carried out using a grant under this paragraph shall be 50 percent of the cost of the project.

(C) REPORT.—Not later than 2 years after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report that describes the number of battery collection points established or enhanced, an estimate of jobs created, and the quantity of material collected as a result of the grants awarded under subparagraph (A).

(D) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this paragraph $50,000,000 for the period of fiscal years 2022 through 2026.

(4) RETAILERS AS COLLECTION POINTS.—

(A) IN GENERAL.—The Secretary shall award grants, on a competitive basis, to retailers that sell covered batteries or covered battery-containing products to establish and implement a system for the acceptance and collection of covered batteries and covered battery-containing products, as applicable, for reuse, recycling, or proper disposal.

(B) COLLECTION SYSTEM.—A system described in subparagraph (A) shall include take-back of covered batteries—

(i) at no cost to the consumer; and

(ii) on a regular, convenient, and accessible basis.

(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this paragraph $15,000,000 for the period of fiscal years 2022 through 2026.

(5) TASK FORCE ON PRODUCER RESPONSIBILITIES.—

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(A) IN GENERAL.—The Secretary, in coordination with the Administrator, shall convene a task force to develop an extended battery producer responsibility framework that—

(i) addresses battery recycling goals, cost structures for mandatory recycling, reporting requirements, product design, collection models, and transportation of collected materials;

(ii) provides sufficient flexibility to allow battery producers to determine cost-effective strategies for compliance with the framework; and

(iii) outlines regulatory pathways for effective recycling.

(B) TASK FORCE MEMBERS.—Members of the task force convened under subparagraph (A) shall include—

(i) battery producers, manufacturers, retailers, recyclers, and collectors or processors;

(ii) States and municipalities; and

(iii) other relevant stakeholders, such as environmental, energy, or consumer organizations, as determined by the Secretary.

(C) REPORT.—Not later than 1 year after the date on which the Secretary, in coordination with Administrator, convenes the task force under subparagraph (A), the Secretary shall submit to Congress a report that—

(i) describes the extended producer responsibility framework developed by the task force;

(ii) includes the recommendations of the task force on how best to implement a mandatory pay-in or other enforcement mechanism to ensure that battery producers and sellers are contributing to the recycling of batteries; and

(iii) suggests regulatory pathways for effective recycling.

(6) EFFECT ON MERCURY-CONTAINING AND RECHARGEABLE BATTERY MANAGEMENT ACT.—Nothing in this subsection, or any regulation, guideline, framework, or policy adopted or promulgated pursuant to this subsection, shall modify or otherwise affect the provisions of the Mercury-Containing and Rechargeable Battery Management Act (42 U.S.C. 14301 et seq.).

SEC. 40208. ELECTRIC DRIVE VEHICLE BATTERY RECYCLING AND SECOND-LIFE APPLICATIONS PROGRAM.

Section 641 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17231) is amended—

(1) by striking subsection (k) and inserting the following:

"(k) ELECTRIC DRIVE VEHICLE BATTERY SECOND-LIFE APPLICATIONS AND RECYCLING.—

"(1) DEFINITIONS.—In this subsection:

"(A) BATTERY RECYCLING AND SECOND-LIFE APPLICATIONS PROGRAM.—The term 'battery recycling and second-life applications program' means the electric drive vehicle battery recycling and second-life applications program established under paragraph (3).

"(B) CRITICAL MATERIAL.—The term 'critical material' has the meaning given the term in section 7002(a) of the Energy Act of 2020 (30 U.S.C. 1606(a)).

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"(C) ECONOMICALLY DISTRESSED AREA.—The term 'economically distressed area' means an area described in section 301(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161(a)).

"(D) ELECTRIC DRIVE VEHICLE BATTERY.—The term 'electric *drive* vehicle battery' means any battery that is a motive power source for an electric drive vehicle.

"(E) ELIGIBLE ENTITY.—The term 'eligible entity' means an entity described in any of paragraphs (1) through (5) of section 989(b) of the Energy Policy Act of 2005 (42 U.S.C. 16353(b)).

"(2) PROGRAM.—The Secretary shall carry out a program of research, development, and demonstration of—

"(A) second-life applications for electric drive vehicle batteries that have been used to power electric drive vehicles; and

"(B) technologies and processes for final recycling and disposal of the devices described in subparagraph (A).

"(3) ELECTRIC DRIVE VEHICLE BATTERY RECYCLING AND SECOND-LIFE APPLICATIONS.—

"(A) IN GENERAL.—In carrying out the program under paragraph (2), the Secretary shall establish an electric drive vehicle battery recycling and second-life applications program under which the Secretary shall—

"(i) award grants under subparagraph (D); and

"(ii) carry out other activities in accordance with this paragraph.

"(B) PURPOSES.—The purposes of the battery recycling and second-life applications program are the following:

"(i) To improve the recycling rates and second-use adoption rates of electric drive vehicle batteries.

"(ii) To optimize the design and adaptability of electric drive vehicle batteries to make electric drive vehicle batteries more easily recyclable.

"(iii) To establish alternative supply chains for critical materials that are found in electric drive vehicle batteries.

"(iv) To reduce the cost of manufacturing, installation, purchase, operation, and maintenance of electric drive vehicle batteries.

"(v) To improve the environmental impact of electric drive vehicle battery recycling processes.

"(C) TARGETS.—In carrying out the battery recycling and second-life applications program, the Secretary shall address near-term (up to 2 years), mid-term (up to 5 years), and long-term (up to 10 years) challenges to the recycling of electric drive vehicle batteries.

"(D) GRANTS.—

"(i) IN GENERAL.—In carrying out the battery recycling and second-life applications program, the Secretary shall award multiyear grants on a competitive, merit-reviewed basis to eligible entities—

"(I) to conduct research, development, testing, and evaluation of solutions to increase the rate and productivity of electric drive vehicle battery recycling; and

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"(II) for research, development, and demonstration projects to create innovative and practical approaches to increase the recycling and second-use of electric drive vehicle batteries, including by addressing—

"(aa) technology to increase the efficiency of electric drive vehicle battery recycling and maximize the recovery of critical materials for use in new products;

"(bb) expanded uses for critical materials recovered from electric drive vehicle batteries;

"(cc) product design and construction to facilitate the disassembly and recycling of electric drive vehicle batteries;

"(dd) product design and construction and other tools and techniques to extend the lifecycle of electric drive vehicle batteries, including methods to promote the safe second-use of electric drive vehicle batteries;

"(ee) strategies to increase consumer acceptance of, and participation in, the recycling of electric drive vehicle batteries;

"(ff) improvements and changes to electric drive vehicle battery chemistries that include ways to decrease processing costs for battery recycling without sacrificing front-end performance;

"(gg) second-use of electric drive vehicle batteries, including in applications outside of the automotive industry; and

"(hh) the commercialization and scale-up of electric drive vehicle battery recycling technologies.

"(ii) PRIORITY.—In awarding grants under clause (i), the Secretary shall give priority to projects that—

"(I) are located in geographically diverse regions of the United States;

"(II) include business commercialization plans that have the potential for the recycling of electric drive vehicle batteries at high volumes;

"(III) support the development of advanced manufacturing technologies that have the potential to improve the competitiveness of the United States in the international electric drive vehicle battery manufacturing sector;

"(IV) provide the greatest potential to reduce costs for consumers and promote accessibility and community implementation of demonstrated technologies;

"(V) increase disclosure and transparency of information to consumers;

"(VI) support the development or demonstration of projects in economically distressed areas; and

"(VII) support other relevant priorities, as determined to be appropriate by the Secretary.

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"(iii) SOLICITATION.—Not later than 90 days after the date of enactment of the Infrastructure Investment and Jobs Act, and annually thereafter, the Secretary shall conduct a national solicitation for applications for grants described in clause (i).

"(iv) DISSEMINATION OF RESULTS.—The Secretary shall publish the results of the projects carried out through grants awarded under clause (i) through—

"(I) best practices relating to those grants, for use in the electric drive vehicle battery manufacturing, design, installation, refurbishing, or recycling industries;

"(II) coordination with information dissemination programs relating to general recycling of electronic devices; and

"(III) educational materials for the public, produced in conjunction with State and local governments or nonprofit organizations, on the problems and solutions relating to the recycling and second-life applications of electric drive vehicle batteries.

"(E) COORDINATION WITH OTHER PROGRAMS OF THE DEPARTMENT.—In carrying out the battery recycling and second-life applications program, the Secretary shall coordinate and leverage the resources of complementary efforts of the Department.

"(F) STUDY AND REPORT.—

"(i) STUDY.—The Secretary shall conduct a study on the viable market opportunities available for the recycling, second-use, and manufacturing of electric drive vehicle batteries in the United States.

"(ii) REPORT.—Not later than 1 year after the date of enactment of the Infrastructure Investment and Jobs Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate, the Committee on Science, Space, and Technology of the House of Representatives, and any other relevant committee of Congress a report containing the results of the study under clause (i), including a description of—

"(I) the ability of relevant businesses or other entities to competitively manufacture electric drive vehicle batteries and recycle electric drive vehicle batteries in the United States;

"(II) any existing electric drive vehicle battery recycling and second-use practices and plans of electric drive vehicle manufacturing companies in the United States;

"(III) any barriers to electric drive vehicle battery recycling in the United States;

"(IV) opportunities and barriers in electric drive vehicle battery supply chains in the United States and internationally, including with allies and trading partners;

"(V) opportunities for job creation in the electric drive vehicle battery recycling and manufacturing fields and the necessary skills employees must acquire for growth of those fields in the United States;

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"(VI) policy recommendations for enhancing electric drive vehicle battery manufacturing and recycling in the United States;

"(VII) any recommendations for lowering logistics costs and creating better coordination and efficiency with respect to the removal, collection, transportation, storage, and disassembly of electric drive vehicle batteries;

"(VIII) any recommendations for areas of coordination with other Federal agencies to improve electric drive vehicle battery recycling rates in the United States;

"(IX) an aggressive 2-year target and plan, the implementation of which shall begin during the 90-day period beginning on the date on which the report is submitted, to enhance the competitiveness of electric drive vehicle battery manufacturing and recycling in the United States; and

"(X) needs for future research, development, and demonstration projects in electric drive vehicle battery manufacturing, recycling, and related areas, as determined by the Secretary.

"(G) EVALUATION.—Not later than 3 years after the date on which the report under subparagraph (F)(ii) is submitted, and every 4 years thereafter, the Secretary shall conduct, and make available to the public and the relevant committees of Congress, an independent review of the progress of the grants awarded under subparagraph (D) in meeting the recommendations and targets included in the report."; and

(2) in subsection (p), by striking paragraph (6) and inserting the following:

"(6) the electric drive vehicle battery recycling and second-life applications program under subsection (k) $200,000,000 for the period of fiscal years 2022 through 2026.".

SEC. 40209. ADVANCED ENERGY MANUFACTURING AND RECYCLING GRANT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ADVANCED ENERGY PROPERTY.—The term "advanced energy property" means—

(A) property designed to be used to produce energy from the sun, water, wind, geothermal or hydrothermal (as those terms are defined in section 612 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17191)) resources, enhanced geothermal systems (as defined in that section), or other renewable resources;

(B) fuel cells, microturbines, or energy storage systems and components;

(C) electric grid modernization equipment or components;

(D) property designed to capture, remove, use, or sequester carbon oxide emissions;

(E) equipment designed to refine, electrolyze, or blend any fuel, chemical, or product that is—

(i) renewable; or

(ii) low-carbon and low-emission;

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(F) property designed to produce energy conservation technologies (including for residential, commercial, and industrial applications);

(G)(i) light-, medium-, or heavy-duty electric or fuel cell vehicles, electric or fuel cell locomotives, electric or fuel cell maritime vessels, or electric or fuel cell planes;

(ii) technologies, components, and materials of those vehicles, locomotives, maritime vessels, or planes; and

(iii) charging or refueling infrastructure associated with those vehicles, locomotives, maritime vessels, or planes;

(H)(i) hybrid vehicles with a gross vehicle weight rating of not less than 14,000 pounds; and

(ii) technologies, components, and materials for those vehicles; and

(I) other advanced energy property designed to reduce greenhouse gas emissions, as may be determined by the Secretary.

(2) COVERED CENSUS TRACT.—The term "covered census tract" means a census tract—

(A) in which, after December 31, 1999, a coal mine had closed;

(B) in which, after December 31, 2009, a coal-fired electricity generating unit had been retired; or

(C) that is immediately adjacent to a census tract described in subparagraph (A) or (B).

(3) ELIGIBLE ENTITY.—The term "eligible entity" means a manufacturing firm—

(A) the gross annual sales of which are less than $100,000,000;

(B) that has fewer than 500 employees at the plant site of the manufacturing firm; and

(C) the annual energy bills of which total more than $100,000 but less than $2,500,000.

(4) MINORITY-OWNED.—The term "minority-owned", with respect to an eligible entity, means an eligible entity not less than 51 percent of which is owned by 1 or more individuals who are—

(A) citizens of the United States; and

(B) Asian American, Native Hawaiian, Pacific Islander, African American, Hispanic, Puerto Rican, Native American, or Alaska Native.

(5) PROGRAM.—The term "Program" means the grant program established under subsection (b).

(6) QUALIFYING ADVANCED ENERGY PROJECT.—The term "qualifying advanced energy project" means a project that—

(A)(i) re-equips, expands, or establishes a manufacturing or recycling facility for the production or recycling, as applicable, of advanced energy property; or

(ii) re-equips an industrial or manufacturing facility with equipment designed to reduce the greenhouse gas emissions of that facility substantially below the greenhouse gas emissions under current best practices, as determined by the Secretary, through the installation of—

(I) low- or zero-carbon process heat systems;

(II) carbon capture, transport, utilization, and storage systems;

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(III) technology relating to energy efficiency and reduction in waste from industrial processes; or

(IV) any other industrial technology that significantly reduces greenhouse gas emissions, as determined by the Secretary;

(B) has a reasonable expectation of commercial viability, as determined by the Secretary; and

(C) is located in a covered census tract.

(b) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish a program to award grants to eligible entities to carry out qualifying advanced energy projects.

(c) APPLICATIONS.—

(1) IN GENERAL.—Each eligible entity seeking a grant under the Program shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the proposed qualifying advanced energy project to be carried out using the grant.

(2) SELECTION CRITERIA.—

(A) PROJECTS.—In selecting eligible entities to receive grants under the Program, the Secretary shall, with respect to the qualifying advanced energy projects proposed by the eligible entities, give higher priority to projects that—

(i) will provide higher net impact in avoiding or reducing anthropogenic emissions of greenhouse gases;

(ii) will result in a higher level of domestic job creation (both direct and indirect) during the lifetime of the project;

(iii) will result in a higher level of job creation in the vicinity of the project, particularly with respect to—

(I) low-income communities (as described in section 45D(e) of the Internal Revenue Code of 1986); and

(II) dislocated workers who were previously employed in manufacturing, coal power plants, or coal mining;

(iv) have higher potential for technological innovation and commercial deployment;

(v) have a lower levelized cost of—

(I) generated or stored energy; or

(II) measured reduction in energy consumption or greenhouse gas emission (based on costs of the full supply chain); and

(vi) have a shorter project time.

(B) ELIGIBLE ENTITIES.—In selecting eligible entities to receive grants under the Program, the Secretary shall give priority to eligible entities that are minority-owned.

(d) PROJECT COMPLETION AND LOCATION; RETURN OF UNOBLIGATED FUNDS.—

(1) COMPLETION; RETURN OF UNOBLIGATED FUNDS.—An eligible entity that receives a grant under the Program shall be required—

(A) to complete the qualifying advanced energy project funded by the grant not later than 3 years after the date of receipt of the grant funds; and

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(B) to return to the Secretary any grant funds that remain unobligated at the end of that 3-year period.

(2) LOCATION.—If the Secretary determines that an eligible entity awarded a grant under the Program has carried out the applicable qualifying advanced energy project at a location that is materially different from the location specified in the application for the grant, the eligible entity shall be required to return the grant funds to the Secretary.

(e) TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall provide technical assistance on a selective basis to eligible entities that are seeking a grant under the Program to enhance the impact of the qualifying advanced energy project to be carried out using the grant with respect to the selection criteria described in subsection (c)(2)(A).

(2) APPLICATIONS.—An eligible entity desiring technical assistance under paragraph (1) shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(3) FACTORS FOR CONSIDERATION.—In selecting eligible entities for technical assistance under paragraph (1), the Secretary shall give higher priority to eligible entities that propose a qualifying advanced energy project that has greater potential for enhancement of the impact of the project with respect to the selection criteria described in subsection (c)(2)(A).

(f) PUBLICATION OF GRANTS.—The Secretary shall make publicly available the identity of each eligible entity awarded a grant under the Program and the amount of the grant.

(g) REPORT.—Not later than 4 years after the date of enactment this Act, the Secretary shall—

(1) review the grants awarded under the Program; and

(2) submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing those grants.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out the Program $750,000,000 for the period of fiscal years 2022 through 2026.

SEC. 40210. CRITICAL MINERALS MINING AND RECYCLING RESEARCH.

(a) DEFINITIONS.—In this section:

(1) CRITICAL MINERAL.—The term "critical mineral" has the meaning given the term in section 7002(a) of the Energy Act of 2020 (30 U.S.C. 1606(a)).

(2) CRITICAL MINERALS AND METALS.—The term "critical minerals and metals" includes any host mineral of a critical mineral.

(3) DIRECTOR.—The term "Director" means the Director of the Foundation.

(4) END-TO-END.—The term "end-to-end", with respect to the integration of mining or life cycle of minerals, means the integrated approach of, or the lifecycle determined by, examining the research and developmental process from the mining of the raw minerals to its processing into useful materials, its integration into components and devices, the utilization of such devices in the end-use application to satisfy certain

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performance metrics, and the recycling or disposal of such devices.

(5) FOREIGN ENTITY OF CONCERN.—The term "foreign entity of concern" means a foreign entity that is—

(A) designated as a foreign terrorist organization by the Secretary of State under section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a));

(B) included on the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control of the Department of the Treasury (commonly known as the SDN list);

(C) owned by, controlled by, or subject to the jurisdiction or direction of a government of a foreign country that is a covered nation (as defined in section 2533c(d) of title 10, United States Code);

(D) alleged by the Attorney General to have been involved in activities for which a conviction was obtained under—

(i) chapter 37 of title 18, United States Code (commonly known as the "Espionage Act");

(ii) section 951 or 1030 of title 18, United States Code;

(iii) chapter 90 of title 18, United States Code (commonly known as the "Economic Espionage Act of 1996)";

(iv) the Arms Export Control Act (22 U.S.C. 2751 et seq.);

(v) section 224, 225, 226, 227, or 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2274, 2275, 2276, 2277, and 2284);

(vi) the Export Control Reform Act of 2018 (50 U.S.C. 4801 et seq.); or

(vii) the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.); or

(E) determined by the Secretary of Commerce, in consultation with the Secretary of Defense and the Director of National Intelligence, to be engaged in unauthorized conduct that is detrimental to the national security or foreign policy of the United States.

(6) FOUNDATION.—The term "Foundation" means the National Science Foundation.

(7) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(8) NATIONAL LABORATORY.—The term "National Laboratory" has the meaning given the term in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801).

(9) RECYCLING.—The term "recycling" means the process of collecting and processing spent materials and devices and turning the materials and devices into raw materials or components that can be reused either partially or completely.

(10) SECONDARY RECOVERY.—The term "secondary recovery" means the recovery of critical minerals and metals from discarded end-use products or from waste products produced during the metal refining and manufacturing process, including from mine waste piles, acid mine drainage sludge,

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or byproducts produced through legacy mining and metallurgy activities.

(b) CRITICAL MINERALS MINING AND RECYCLING RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—In order to support supply chain resiliency, the Secretary, in coordination with the Director, shall issue awards, on a competitive basis, to eligible entities described in paragraph (2) to support basic research that will accelerate innovation to advance critical minerals mining, recycling, and reclamation strategies and technologies for the purposes of—

(A) making better use of domestic resources; and

(B) eliminating national reliance on minerals and mineral materials that are subject to supply disruptions.

(2) ELIGIBLE ENTITIES.—Entities eligible to receive an award under paragraph (1) are the following:

(A) Institutions of higher education.

(B) National Laboratories.

(C) Nonprofit organizations.

(D) Consortia of entities described in subparagraphs (A) through (C), including consortia that collaborate with private industry.

(3) USE OF FUNDS.—Activities funded by an award under this section may include—

(A) advancing mining research and development activities to develop new mapping and mining technologies and techniques, including advanced critical mineral extraction and production—

(i) to improve existing, or to develop new, supply chains of critical minerals; and

(ii) to yield more efficient, economical, and environmentally benign mining practices;

(B) advancing critical mineral processing research activities to improve separation, alloying, manufacturing, or recycling techniques and technologies that can decrease the energy intensity, waste, potential environmental impact, and costs of those activities;

(C) advancing research and development of critical minerals mining and recycling technologies that take into account the potential end-uses and disposal of critical minerals, in order to improve end-to-end integration of mining and technological applications;

(D) conducting long-term earth observation of reclaimed mine sites, including the study of the evolution of microbial diversity at those sites;

(E) examining the application of artificial intelligence for geological exploration of critical minerals, including what size and diversity of data sets would be required;

(F) examining the application of machine learning for detection and sorting of critical minerals, including what size and diversity of data sets would be required;

(G) conducting detailed isotope studies of critical minerals and the development of more refined geologic models; or

(H) providing training and research opportunities to undergraduate and graduate students to prepare the next generation of mining engineers and researchers.

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(c) CRITICAL MINERALS INTERAGENCY SUBCOMMITTEE.—

(1) IN GENERAL.—In order to support supply chain resiliency, the Critical Minerals Subcommittee of the National Science and Technology Council (referred to in this subsection as the "Subcommittee") shall coordinate Federal science and technology efforts to ensure secure and reliable supplies of critical minerals to the United States.

(2) PURPOSES.—The purposes of the Subcommittee shall be—

(A) to advise and assist the National Science and Technology Council, including the Committee on Homeland and National Security of the National Science and Technology Council, on United States policies, procedures, and plans relating to critical minerals, including—

(i) Federal research, development, and deployment efforts to optimize methods for extractions, concentration, separation, and purification of conventional, secondary, and unconventional sources of critical minerals, including research that prioritizes end-to-end integration of mining and recycling techniques and the end-use target for critical minerals;

(ii) efficient use and reuse of critical minerals, including recycling technologies for critical minerals and the reclamation of critical minerals from components, such as spent batteries;

(iii) addressing the technology transitions between research or lab-scale mining and recycling and commercialization of these technologies;

(iv) the critical minerals workforce of the United States; and

(v) United States private industry investments in innovation and technology transfer from federally funded science and technology;

(B) to identify emerging opportunities, stimulate international cooperation, and foster the development of secure and reliable supply chains of critical minerals, including activities relating to the reuse of critical minerals via recycling;

(C) to ensure the transparency of information and data related to critical minerals; and

(D) to provide recommendations on coordination and collaboration among the research, development, and deployment programs and activities of Federal agencies to promote a secure and reliable supply of critical minerals necessary to maintain national security, economic well-being, and industrial production.

(3) RESPONSIBILITIES.—In carrying out paragraphs (1) and (2), the Subcommittee may, taking into account the findings and recommendations of relevant advisory committees—

(A) provide recommendations on how Federal agencies may improve the topographic, geologic, and geophysical mapping of the United States and improve the discoverability, accessibility, and usability of the resulting and existing data, to the extent permitted by law and subject to appropriate limitation for purposes of privacy and security;

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(B) assess the progress toward developing critical minerals recycling and reprocessing technologies;

(C) assess the end-to-end lifecycle of critical minerals, including for mining, usage, recycling, and end-use material and technology requirements;

(D) examine, and provide recommendations for, options for accessing and developing critical minerals through investment and trade with allies and partners of the United States;

(E) evaluate and provide recommendations to incentivize the development and use of advances in science and technology in the private industry;

(F) assess the need for, and make recommendations to address, the challenges the United States critical minerals supply chain workforce faces, including—

(i) aging and retiring personnel and faculty;

(ii) public perceptions about the nature of mining and mineral processing; and

(iii) foreign competition for United States talent;

(G) develop, and update as necessary, a strategic plan to guide Federal programs and activities to enhance—

(i) scientific and technical capabilities across critical mineral supply chains, including a roadmap that identifies key research and development needs and coordinates ongoing activities for source diversification, more efficient use, recycling, and substitution for critical minerals; and

(ii) cross-cutting mining science, data science techniques, materials science, manufacturing science and engineering, computational modeling, and environmental health and safety research and development; and

(H) report to the appropriate committees of Congress on activities and findings under this subsection.

(4) MANDATORY RESPONSIBILITIES.—In carrying out paragraphs (1) and (2), the Subcommittee shall, taking into account the findings and recommendations of relevant advisory committees, identify and evaluate Federal policies and regulations that restrict the mining of critical minerals.

(d) GRANT PROGRAM FOR PROCESSING OF CRITICAL MINERALS AND DEVELOPMENT OF CRITICAL MINERALS AND METALS.—

(1) ESTABLISHMENT.—The Secretary, in consultation with the Director, the Secretary of the Interior, and the Secretary of Commerce, shall establish a grant program to finance pilot projects for—

(A) the processing or recycling of critical minerals in the United States; or

(B) the development of critical minerals and metals in the United States

(2) LIMITATION ON GRANT AWARDS.—A grant awarded under paragraph (1) may not exceed $10,000,000.

(3) ECONOMIC VIABILITY.—In awarding grants under paragraph (1), the Secretary shall give priority to projects that the Secretary determines are likely to be economically viable over the long term.

(4) SECONDARY RECOVERY.—In awarding grants under paragraph (1), the Secretary shall seek to award not less than

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30 percent of the total amount of grants awarded during the fiscal year for projects relating to secondary recovery of critical minerals and metals.

(5) DOMESTIC PRIORITY.—In awarding grants for the development of critical minerals and metals under paragraph (1)(B), the Secretary shall prioritize pilot projects that will process the critical minerals and metals domestically.

(6) PROHIBITION ON PROCESSING BY FOREIGN ENTITY OF CONCERN.—In awarding grants under paragraph (1), the Secretary shall ensure that pilot projects do not export for processing any critical minerals and metals to a foreign entity of concern.

(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out the grant program established under paragraph (1) $100,000,000 for each of fiscal years 2021 through 2024.

SEC. 40211. 21ST CENTURY ENERGY WORKFORCE ADVISORY BOARD.

(a) ESTABLISHMENT.—The Secretary shall establish a board, to be known as the "21st Century Energy Workforce Advisory Board", to develop a strategy for the Department that, with respect to the role of the Department in the support and development of a skilled energy workforce—

(1) meets the current and future industry and labor needs of the energy sector;

(2) provides opportunities for students to become qualified for placement in traditional energy sector and emerging energy sector jobs;

(3) identifies areas in which the Department can effectively utilize the technical expertise of the Department to support the workforce activities of other Federal agencies;

(4) strengthens and engages the workforce training programs of the Department and the National Laboratories in carrying out the Equity in Energy Initiative of the Department and other Department workforce priorities;

(5) develops plans to support and retrain displaced and unemployed energy sector workers; and

(6) prioritizes education and job training for underrepresented groups, including racial and ethnic minorities, Indian Tribes, women, veterans, and socioeconomically disadvantaged individuals.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Board shall be composed of not fewer than 10 and not more than 15 members, with the initial members of the Board to be appointed by the Secretary not later than 1 year after the date of enactment of this Act.

(2) REQUIREMENT.—The Board shall include not fewer than 1 representative of a labor organization with significant energy experience who has been nominated by a national labor federation.

(3) QUALIFICATIONS.—Each individual appointed to the Board under paragraph (1) shall have expertise in—

(A) the field of economics or workforce development;

(B) relevant traditional energy industries or emerging energy industries, including energy efficiency;

(C) secondary or postsecondary education;

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(D) energy workforce development or apprenticeship programs of States or units of local government;

(E) relevant organized labor organizations; or

(F) bringing underrepresented groups, including racial and ethnic minorities, women, veterans, and socioeconomically disadvantaged individuals, into the workforce.

(c) ADVISORY BOARD REVIEW AND RECOMMENDATIONS.—

(1) DETERMINATION BY BOARD.—In developing the strategy required under subsection (a), the Board shall—

(A) determine whether there are opportunities to more effectively and efficiently use the capabilities of the Department in the development of a skilled energy workforce;

(B) identify ways in which the Department could work with other relevant Federal agencies, States, units of local government, institutions of higher education, labor organizations, Indian Tribes and tribal organizations, and industry in the development of a skilled energy workforce, subject to applicable law;

(C) identify ways in which the Department and National Laboratories can—

(i) increase outreach to minority-serving institutions; and

(ii) make resources available to increase the number of skilled minorities and women trained to go into the energy and energy-related manufacturing sectors;

(iii) increase outreach to displaced and unemployed energy sector workers; and

(iv) make resources available to provide training to displaced and unemployed energy sector workers to reenter the energy workforce; and

(D)(i) identify the energy sectors in greatest need of workforce training; and

(ii) in consultation with the Secretary of Labor, develop recommendations for the skills necessary to develop a workforce trained to work in those energy sectors.

(2) REQUIRED ANALYSIS.—In developing the strategy required under subsection (a), the Board shall analyze the effectiveness of—

(A) existing Department-directed support; and

(B) existing energy workforce training programs.

(3) REPORT.—

(A) IN GENERAL.—Not later than 1 year after the date on which the Board is established under this section, and biennially thereafter until the date on which the Board is terminated under subsection (f), the Board shall submit to the Secretary a report containing, with respect to the strategy required under subsection (a)—

(i) the findings of the Board; and

(ii) the proposed energy workforce strategy of the Board.

(B) RESPONSE OF THE SECRETARY.—Not later than 90 days after the date on which a report is submitted to the Secretary under subparagraph (A), the Secretary shall—

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(i) submit to the Board a response to the report that—

(I) describes whether the Secretary approves or disapproves of each recommendation of the Board under subparagraph (A); and

(II) if the Secretary approves of a recommendation, provides an implementation plan for the recommendation; and

(ii) submit to Congress—

(I) the report of the Board under subparagraph (A); and

(II) the response of the Secretary under clause (i).

(C) PUBLIC AVAILABILITY OF REPORT.—

(i) IN GENERAL.—The Board shall make each report under subparagraph (A) available to the public on the earlier of—

(I) the date on which the Board receives the response of the Secretary under subparagraph (B)(i); and

(II) the date that is 90 days after the date on which the Board submitted the report to the Secretary.

(ii) REQUIREMENT.—If the Board has received a response to a report from the Secretary under subparagraph (B)(i), the Board shall make that response publicly available with the applicable report.

(d) REPORT BY THE SECRETARY.—Not later than 180 days before the date of expiration of a term of the Board under subsection (f), the Secretary shall submit to the Committees on Energy and Natural Resources and Appropriations of the Senate and the Committees on Energy and Commerce and Appropriations of the House of Representatives a report that—

(1) describes the effectiveness and accomplishments of the Board during the applicable term;

(2) contains a determination of the Secretary as to whether the Board should be renewed; and

(3) if the Secretary determines that the Board should be renewed, any recommendations as to whether and how the scope and functions of the Board should be modified.

(e) OUTREACH TO MINORITY-SERVING INSTITUTIONS, VETERANS, AND DISPLACED AND UNEMPLOYED ENERGY WORKERS.—In developing the strategy under subsection (a), the Board shall—

(1) give special consideration to increasing outreach to minority-serving institutions, veterans, and displaced and unemployed energy workers;

(2) make resources available to—

(A) minority-serving institutions, with the objective of increasing the number of skilled minorities and women trained to go into the energy and manufacturing sectors;

(B) institutions that serve veterans, with the objective of increasing the number veterans in the energy industry by ensuring that veterans have the credentials and training necessary to secure careers in the energy industry; and

(C) institutions that serve displaced and unemployed energy workers to increase the number of individuals trained for jobs in the energy industry;

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(3) encourage the energy industry to improve the opportunities for students of minority-serving institutions, veterans, and displaced and unemployed energy workers to participate in internships, preapprenticeships, apprenticeships, and cooperative work-study programs in the energy industry; and

(4) work with the National Laboratories to increase the participation of underrepresented groups, veterans, and displaced and unemployed energy workers in internships, fellowships, training programs, and employment at the National Laboratories.

(f) TERM.—

(1) IN GENERAL.—Subject to paragraph (2), the Board shall terminate on September 30, 2026.

(2) EXTENSIONS.—The Secretary may renew the Board for 1 or more 5-year periods by submitting, not later than the date described in subsection (d), a report described in that subsection that contains a determination by the Secretary that the Board should be renewed.

TITLE III—FUELS AND TECHNOLOGY INFRASTRUCTURE INVESTMENTS

Subtitle A—Carbon Capture, Utilization, Storage, and Transportation Infrastructure

SEC. 40301. FINDINGS.

Congress finds that—

(1) the industrial sector is integral to the economy of the United States—

(A) providing millions of jobs and essential products; and

(B) demonstrating global leadership in manufacturing and innovation;

(2) carbon capture and storage technologies are necessary for reducing hard-to-abate emissions from the industrial sector, which emits nearly 25 percent of carbon dioxide emissions in the United States;

(3) carbon removal and storage technologies, including direct air capture, must be deployed at large-scale in the coming decades to remove carbon dioxide directly from the atmosphere;

(4) large-scale deployment of carbon capture, removal, utilization, transport, and storage—

(A) is critical for achieving mid-century climate goals; and

(B) will drive regional economic development, technological innovation, and high-wage employment;

(5) carbon capture, removal, and utilization technologies require a backbone system of shared carbon dioxide transport and storage infrastructure to enable large-scale deployment, realize economies of scale, and create an interconnected carbon management market;

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(6) carbon dioxide transport infrastructure and permanent geological storage are proven and safe technologies with existing Federal and State regulatory frameworks;

(7) carbon dioxide transport and storage infrastructure share similar barriers to deployment previously faced by other types of critical national infrastructure, such as high capital costs and chicken-and-egg challenges, that require Federal and State support, in combination with private investment, to be overcome; and

(8) each State should take into consideration, with respect to new carbon dioxide transportation infrastructure—

(A) qualifying the infrastructure as pollution control devices under applicable laws (including regulations) of the State; and

(B) establishing a waiver of ad valorem and property taxes for the infrastructure for a period of not less than 10 years.

SEC. 40302. CARBON UTILIZATION PROGRAM.

Section 969A of the Energy Policy Act of 2005 (42 U.S.C. 16298a) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(B) by inserting after paragraph (2) the following:

"(3) to develop or obtain, in coordination with other applicable Federal agencies and standard-setting organizations, standards and certifications, as appropriate, to facilitate the commercialization of the products and technologies described in paragraph (2);";

(2) in subsection (b)—

(A) by redesignating paragraph (2) as paragraph (3);

(B) by inserting after paragraph (1) the following:

"(2) GRANT PROGRAM.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Infrastructure Investment and Jobs Act, the Secretary shall establish a program to provide grants to eligible entities to use in accordance with subparagraph (D).

"(B) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this paragraph, an entity shall be—

"(i) a State;

"(ii) a unit of local government; or

"(iii) a public utility or agency.

"(C) APPLICATIONS.—Eligible entities desiring a grant under this paragraph shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary determines to be appropriate.

"(D) USE OF FUNDS.—An eligible entity shall use a grant received under this paragraph to procure and use commercial or industrial products that—

"(i) use or are derived from anthropogenic carbon oxides; and

"(ii) demonstrate significant net reductions in lifecycle greenhouse gas emissions compared to incumbent technologies, processes, and products."; and

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(C) in paragraph (3) (as so redesignated), by striking "paragraph (1)" and inserting "this subsection"; and

(3) by striking subsection (d) and inserting the following:

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

"(1) $41,000,000 for fiscal year 2022;

"(2) $65,250,000 for fiscal year 2023;

"(3) $66,562,500 for fiscal year 2024;

"(4) $67,940,625 for fiscal year 2025; and

"(5) $69,387,656 for fiscal year 2026.".

SEC. 40303. CARBON CAPTURE TECHNOLOGY PROGRAM.

Section 962 of the Energy Policy Act of 2005 (42 U.S.C. 16292) is amended—

(1) in subsection (b)(2)—

(A) in subparagraph (C), by striking "and" at the end;

(B) in subparagraph (D), by striking "program." and inserting "program for carbon capture technologies; and"; and

(C) by adding at the end the following:

"(E) a front-end engineering and design program for carbon dioxide transport infrastructure necessary to enable deployment of carbon capture, utilization, and storage technologies."; and

(2) in subsection (d)(1)—

(A) in subparagraph (C), by striking "and" at the end;

(B) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(E) for activities under the front-end engineering and design program described in subsection (b)(2)(E), $100,000,000 for the period of fiscal years 2022 through 2026.".

SEC. 40304. CARBON DIOXIDE TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION.

(a) IN GENERAL.—Title IX of the Energy Policy Act of 2005 (42 U.S.C. 16181 et seq.) is amended by adding at the end the following:

"Subtitle J—Carbon Dioxide Transportation Infrastructure Finance and Innovation

"SEC. 999A. DEFINITIONS.

"In this subtitle:

"(1) CIFIA PROGRAM.—The term 'CIFIA program' means the carbon dioxide transportation infrastructure finance and innovation program established under section 999B(a).

"(2) COMMON CARRIER.—The term 'common carrier' means a transportation infrastructure operator or owner that—

"(A) publishes a publicly available tariff containing the just and reasonable rates, terms, and conditions of nondiscriminatory service; and

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"(B) holds itself out to provide transportation services to the public for a fee.

"(3) CONTINGENT COMMITMENT.—The term 'contingent commitment' means a commitment to obligate funds from future available budget authority that is—

"(A) contingent on those funds being made available in law at a future date; and

"(B) not an obligation of the Federal Government.

"(4) ELIGIBLE PROJECT COSTS.—The term 'eligible project costs' means amounts substantially all of which are paid by, or for the account of, an obligor in connection with a project, including—

"(A) the cost of—

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

"(ii) construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land relating to the project and improvements to land), environmental mitigation, construction contingencies, and acquisition and installation of equipment (including labor); and

"(iii) capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction; and

"(B) transaction costs associated with financing the project, including—

"(i) the cost of legal counsel and technical consultants; and

"(ii) any subsidy amount paid in accordance with section 999B(c)(3)(B)(ii) or section 999C(b)(6)(B)(ii).

"(5) FEDERAL CREDIT INSTRUMENT.—The term 'Federal credit instrument' means a secured loan or loan guarantee authorized to be provided under the CIFIA program with respect to a project.

"(6) LENDER.—The term 'lender' means a qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or a successor regulation), commonly known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)), that is not a Federal qualified institutional buyer.

"(7) LETTER OF INTEREST.—The term 'letter of interest' means a letter submitted by a potential applicant prior to an application for credit assistance in a format prescribed by the Secretary on the website of the CIFIA program that—

"(A) describes the project and the location, purpose, and cost of the project;

"(B) outlines the proposed financial plan, including the requested credit and grant assistance and the proposed obligor;

"(C) provides a status of environmental review; and

"(D) provides information regarding satisfaction of other eligibility requirements of the CIFIA program.

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"(8) LOAN GUARANTEE.—The term 'loan guarantee' means any guarantee or other pledge by the Secretary to pay all or part of the principal of, and interest on, a loan made to an obligor, or debt obligation issued by an obligor, in each case funded by a lender.

"(9) MASTER CREDIT AGREEMENT.—The term 'master credit agreement' means a conditional agreement that—

"(A) is for the purpose of extending credit assistance for—

"(i) a project of high priority under section 999B(c)(3)(A); or

"(ii) a project covered under section 999B(c)(3)(B);

"(B) does not provide for a current obligation of Federal funds; and

"(C) would—

"(i) make a contingent commitment of a Federal credit instrument or grant at a future date, subject to—

"(I) the availability of future funds being made available to carry out the CIFIA program; and

"(II) the satisfaction of all conditions for the provision of credit assistance under the CIFIA program, including section 999C(b);

"(ii) establish the maximum amounts and general terms and conditions of the Federal credit instruments or grants;

"(iii) identify the 1 or more revenue sources that will secure the repayment of the Federal credit instruments;

"(iv) provide for the obligation of funds for the Federal credit instruments or grants after all requirements have been met for the projects subject to the agreement, including—

"(I) compliance with all applicable requirements specified under the CIFIA program, including sections 999B(d) and 999C(b)(1); and

"(II) the availability of funds to carry out the CIFIA program; and

"(v) require that contingent commitments shall result in a financial close and obligation of credit or grant assistance by not later than 4 years after the date of entry into the agreement or release of the commitment, as applicable, unless otherwise extended by the Secretary.

"(10) OBLIGOR.—The term 'obligor' means a corporation, partnership, joint venture, trust, non-Federal governmental entity, agency, or instrumentality, or other entity that is liable for payment of the principal of, or interest on, a Federal credit instrument.

"(11) PRODUCED IN THE UNITED STATES.—The term 'produced in the United States', with respect to iron and steel, means that all manufacturing processes for the iron and steel, including the application of any coating, occurs within the United States.

"(12) PROJECT.—The term 'project' means a project for common carrier carbon dioxide transportation infrastructure or associated equipment, including pipeline, shipping, rail, or

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other transportation infrastructure and associated equipment, that will transport or handle carbon dioxide captured from anthropogenic sources or ambient air, as the Secretary determines to be appropriate.

"(13) PROJECT OBLIGATION.—The term 'project obligation' means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of a project, other than a Federal credit instrument.

"(14) SECURED LOAN.—The term 'secured loan' means a direct loan to an obligor or a debt obligation issued by an obligor and purchased by the Secretary, in each case funded by the Secretary in connection with the financing of a project under section 999C.

"(15) SUBSIDY AMOUNT.—The term 'subsidy amount' means the amount of budget authority sufficient to cover the estimated long-term cost to the Federal Government of a Federal credit instrument—

"(A) calculated on a net present value basis; and

"(B) excluding administrative costs and any incidental effects on governmental receipts or outlays in accordance with the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

"(16) SUBSTANTIAL COMPLETION.—The term 'substantial completion', with respect to a project, means the date—

"(A) on which the project commences transportation of carbon dioxide; or

"(B) of a comparable event to the event described in subparagraph (A), as determined by the Secretary and specified in the project credit agreement.

"SEC. 999B. DETERMINATION OF ELIGIBILITY AND PROJECT SELECTION.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish and carry out a carbon dioxide transportation infrastructure finance and innovation program, under which the Secretary shall provide for eligible projects in accordance with this subtitle—

"(1) a Federal credit instrument under section 999C;

"(2) a grant under section 999D; or

"(3) both a Federal credit instrument and a grant.

"(b) ELIGIBILITY.—

"(1) IN GENERAL.—A project shall be eligible to receive a Federal credit instrument or a grant under the CIFIA program if—

"(A) the entity proposing to carry out the project submits a letter of interest prior to submission of an application under paragraph (3) for the project; and

"(B) the project meets the criteria described in this subsection.

"(2) CREDITWORTHINESS.—

"(A) IN GENERAL.—Each project and obligor that receives a Federal credit instrument or a grant under the CIFIA program shall be creditworthy, such that there exists a reasonable prospect of repayment of the principal and interest on the Federal credit instrument, as determined by the Secretary under subparagraph (B).

"(B) REASONABLE PROSPECT OF REPAYMENT.—The Secretary shall base a determination of whether there is a

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reasonable prospect of repayment under subparagraph (A) on a comprehensive evaluation of whether the obligor has a reasonable prospect of repaying the Federal credit instrument for the eligible project, including evaluation of—

"(i) the strength of the contractual terms of an eligible project (if available for the applicable market segment);

"(ii) the forecast of noncontractual cash flows supported by market projections from reputable sources, as determined by the Secretary, and cash sweeps or other structural enhancements;

"(iii) the projected financial strength of the obligor—

"(I) at the time of loan close; and

"(II) throughout the loan term, including after the project is completed;

"(iv) the financial strength of the investors and strategic partners of the obligor, if applicable; and

"(v) other financial metrics and analyses that are relied on by the private lending community and nationally recognized credit rating agencies, as determined appropriate by the Secretary.

"(3) APPLICATIONS.—To be eligible for assistance under the CIFIA program, an obligor shall submit to the Secretary a project application at such time, in such manner, and containing such information as the Secretary determines to be appropriate.

"(4) ELIGIBLE PROJECT COSTS.—A project under the CIFIA program shall have eligible project costs that are reasonably anticipated to equal or exceed $100,000,000.

"(5) REVENUE SOURCES.—The applicable Federal credit instrument shall be repayable, in whole or in part, from—

"(A) user fees;

"(B) payments owing to the obligor under a public-private partnership; or

"(C) other revenue sources that also secure or fund the project obligations.

"(6) OBLIGOR WILL BE IDENTIFIED LATER.—A State, local government, agency, or instrumentality of a State or local government, or a public authority, may submit to the Secretary an application under paragraph (3), under which a private party to a public-private partnership will be—

"(A) the obligor; and

"(B) identified at a later date through completion of a procurement and selection of the private party.

"(7) BENEFICIAL EFFECTS.—The Secretary shall determine that financial assistance for each project under the CIFIA program will—

"(A) attract public or private investment for the project; or

"(B) enable the project to proceed at an earlier date than the project would otherwise be able to proceed or reduce the lifecycle costs (including debt service costs) of the project.

"(8) PROJECT READINESS.—To be eligible for assistance under the CIFIA program, the applicant shall demonstrate a reasonable expectation that the contracting process for

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construction of the project can commence by not later than 90 days after the date on which a Federal credit instrument or grant is obligated for the project under the CIFIA program.

"(c) SELECTION AMONG ELIGIBLE PROJECTS.—

"(1) ESTABLISHMENT OF APPLICATION PROCESS.—The Secretary shall establish an application process under which projects that are eligible to receive assistance under subsection (b) may—

"(A) receive credit assistance on terms acceptable to the Secretary, if adequate funds are available (including any funds provided on behalf of an eligible project under paragraph (3)(B)(ii)) to cover the subsidy amount associated with the Federal credit instrument; and

"(B) receive grants under section 999D if—

"(i) adequate funds are available to cover the amount of the grant; and

"(ii) the Secretary determines that the project is eligible under subsection (b).

"(2) PRIORITY.—In selecting projects to receive credit assistance under subsection (b), the Secretary shall give priority to projects that—

"(A) are large-capacity, common carrier infrastructure;

"(B) have demonstrated demand for use of the infrastructure by associated projects that capture carbon dioxide from anthropogenic sources or ambient air;

"(C) enable geographical diversity in associated projects that capture carbon dioxide from anthropogenic sources or ambient air, with the goal of enabling projects in all major carbon dioxide-emitting regions of the United States; and

"(D) are sited within, or adjacent to, existing pipeline or other linear infrastructure corridors, in a manner that minimizes environmental disturbance and other siting concerns.

"(3) MASTER CREDIT AGREEMENTS.—

"(A) PRIORITY PROJECTS.—The Secretary may enter into a master credit agreement for a project that the Secretary determines—

"(i) will likely be eligible for credit assistance under subsection (b), on obtaining—

"(I) additional commitments from associated carbon capture projects to use the project; or

"(II) all necessary permits and approvals; and

"(ii) is a project of high priority, as determined in accordance with the criteria described in paragraph (2).

"(B) ADEQUATE FUNDING NOT AVAILABLE.—If the Secretary fully obligates funding to eligible projects for a fiscal year and adequate funding is not available to fund a Federal credit instrument, a project sponsor (including a unit of State or local government) of an eligible project may elect—

"(i)(I) to enter into a master credit agreement in lieu of the Federal credit instrument; and

"(II) to wait to execute a Federal credit instrument until the fiscal year for which additional funds are available to receive credit assistance; or

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"(ii) if the lack of adequate funding is solely with respect to amounts available for the subsidy amount, to pay the subsidy amount to fund the Federal credit instrument.

"(d) FEDERAL REQUIREMENTS.—

"(1) IN GENERAL.—Nothing in this subtitle supersedes the applicability of any other requirement under Federal law (including regulations).

"(2) NEPA.—Federal credit assistance may only be provided under this subtitle for a project that has received an environmental categorical exclusion, a finding of no significant impact, or a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(e) USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no Federal credit instrument or grant provided under the CIFIA program shall be made available for a project unless all iron, steel, and manufactured goods used in the project are produced in the United States.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply in any case or category of cases with respect to which the Secretary determines that—

"(A) the application would be inconsistent with the public interest;

"(B) iron, steel, or a relevant manufactured good is not produced in the United States in sufficient and reasonably available quantity, or of a satisfactory quality; or

"(C) the inclusion of iron, steel, or a manufactured good produced in the United States will increase the cost of the overall project by more than 25 percent.

"(3) WAIVERS.—If the Secretary receives a request for a waiver under this subsection, the Secretary shall—

"(A) make available to the public a copy of the request, together with any information available to the Secretary concerning the request—

"(i) on an informal basis; and

"(ii) by electronic means, including on the official public website of the Department;

"(B) allow for informal public comment relating to the request for not fewer than 15 days before making a determination with respect to the request; and

"(C) approve or disapprove the request by not later than the date that is 120 days after the date of receipt of the request.

"(4) APPLICABILITY.—This subsection shall be applied in accordance with any applicable obligations of the United States under international agreements.

"(f) APPLICATION PROCESSING PROCEDURES.—

"(1) NOTICE OF COMPLETE APPLICATION.—Not later than 30 days after the date of receipt of an application under this section, the Secretary shall provide to the applicant a written notice describing whether—

"(A) the application is complete; or

"(B) additional information or materials are needed to complete the application.

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"(2) APPROVAL OR DENIAL OF APPLICATION.—Not later than 60 days after the date of issuance of a written notice under paragraph (1), the Secretary shall provide to the applicant a written notice informing the applicant whether the Secretary has approved or disapproved the application.

"(g) DEVELOPMENT-PHASE ACTIVITIES.—Any Federal credit instrument provided under the CIFIA program may be used to finance up to 100 percent of the cost of development-phase activities, as described in section 999A(4)(A).

"SEC. 999C. SECURED LOANS.

"(a) AGREEMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary may enter into agreements with 1 or more obligors to make secured loans, the proceeds of which—

"(A) shall be used—

"(i) to finance eligible project costs of any project selected under section 999B;

"(ii) to refinance interim construction financing of eligible project costs of any project selected under section 999B; or

"(iii) to refinance long-term project obligations or Federal credit instruments, if the refinancing provides additional funding capacity for the completion, enhancement, or expansion of any project that—

"(I) is selected under section 999B; or

"(II) otherwise meets the requirements of that section; and

"(B) may be used in accordance with subsection (b)(7) to pay any fees collected by the Secretary under subparagraph (B) of that subsection.

"(2) RISK ASSESSMENT.—Before entering into an agreement under this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget, shall determine an appropriate credit subsidy amount for each secured loan, taking into account all relevant factors, including the creditworthiness factors under section 999B(b)(2).

"(b) TERMS AND LIMITATIONS.—

"(1) IN GENERAL.—A secured loan under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines to be appropriate.

"(2) MAXIMUM AMOUNT.—The amount of a secured loan under this section shall not exceed an amount equal to 80 percent of the reasonably anticipated eligible project costs.

"(3) PAYMENT.—A secured loan under this section shall be payable, in whole or in part, from—

"(A) user fees;

"(B) payments owing to the obligor under a public-private partnership; or

"(C) other revenue sources that also secure or fund the project obligations.

"(4) INTEREST RATE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the interest rate on a secured loan under this section shall be not less than the interest rate reflected in the

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yield on United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of execution of the loan agreement.

"(B) LIMITED BUYDOWNS.—

"(i) IN GENERAL.—Subject to clause (iii), the Secretary may lower the interest rate of a secured loan under this section to not lower than the interest rate described in clause (ii), if the interest rate has increased during the period—

"(I) beginning on, as applicable—

"(aa) the date on which an application acceptable to the Secretary is submitted for the applicable project; or

"(bb) the date on which the Secretary entered into a master credit agreement for the applicable project; and

"(II) ending on the date on which the Secretary executes the Federal credit instrument for the applicable project that is the subject of the secured loan.

"(ii) DESCRIPTION OF INTEREST RATE.—The interest rate referred to in clause (i) is the interest rate reflected in the yield on United States Treasury securities of a similar maturity to the maturity of the secured loan in effect, as applicable to the project that is the subject of the secured loan, on—

"(I) the date described in clause (i)(I)(aa); or

"(II) the date described in clause (i)(I)(bb).

"(iii) LIMITATION.—The interest rate of a secured loan may not be lowered pursuant to clause (i) by more than 1½ percentage points (150 basis points).

"(5) MATURITY DATE.—The final maturity date of the secured loan shall be the earlier of—

"(A) the date that is 35 years after the date of substantial completion of the project; and

"(B) if the useful life of the capital asset being financed is of a lesser period, the date that is the end of the useful life of the asset.

"(6) NONSUBORDINATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the secured loan shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

"(B) PREEXISTING INDENTURE.—

"(i) IN GENERAL.—The Secretary shall waive the requirement under subparagraph (A) for a public agency borrower that is financing ongoing capital programs and has outstanding senior bonds under a preexisting indenture, if—

"(I) the secured loan is rated in the A category or higher; and

"(II) the secured loan is secured and payable from pledged revenues not affected by project performance, such as a tax-backed revenue pledge or a system-backed pledge of project revenues.

"(ii) LIMITATION.—If the Secretary waives the nonsubordination requirement under this subparagraph—

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"(I) the maximum credit subsidy amount to be paid by the Federal Government shall be not more than 10 percent of the principal amount of the secured loan; and

"(II) the obligor shall be responsible for paying the remainder of the subsidy amount, if any.

"(7) FEES.—

"(A) IN GENERAL.—The Secretary may collect a fee on or after the date of the financial close of a Federal credit instrument under this section in an amount equal to not more than $3,000,000 to cover all or a portion of the costs to the Federal Government of providing the Federal credit instrument.

"(B) AMENDMENT TO ADD COST OF FEES TO SECURED LOAN.—If the Secretary collects a fee from an obligor under subparagraph (A) to cover all or a portion of the costs to the Federal Government of providing a secured loan, the obligor and the Secretary may amend the terms of the secured loan to add to the principal of the secured loan an amount equal to the amount of the fee collected by the Secretary.

"(8) MAXIMUM FEDERAL INVOLVEMENT.—The total Federal assistance provided for a project under the CIFIA program, including any grant provided under section 999D, shall not exceed an amount equal to 80 percent of the eligible project costs.

"(c) REPAYMENT.—

"(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each secured loan under this section based on—

"(A) the projected cash flow from project revenues and other repayment sources; and

"(B) the useful life of the project.

"(2) COMMENCEMENT.—Scheduled loan repayments of principal or interest on a secured loan under this section shall commence not later than 5 years after the date of substantial completion of the project.

"(3) DEFERRED PAYMENTS.—

"(A) IN GENERAL.—If, at any time after the date of substantial completion of a project, the project is unable to generate sufficient revenues in excess of reasonable and necessary operating expenses to pay the scheduled loan repayments of principal and interest on the secured loan, the Secretary may, subject to subparagraph (C), allow the obligor to add unpaid principal and interest to the outstanding balance of the secured loan.

"(B) INTEREST.—Any payment deferred under subparagraph (A) shall—

"(i) continue to accrue interest in accordance with subsection (b)(4) until fully repaid; and

"(ii) be scheduled to be amortized over the remaining term of the loan.

"(C) CRITERIA.—

"(i) IN GENERAL.—Any payment deferral under subparagraph (A) shall be contingent on the project meeting criteria established by the Secretary.

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"(ii) REPAYMENT STANDARDS.—The criteria established pursuant to clause (i) shall include standards for the reasonable prospect of repayment.

"(4) PREPAYMENT.—

"(A) USE OF EXCESS REVENUES.—Any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and secured loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay the secured loan, without penalty.

"(B) USE OF PROCEEDS OF REFINANCING.—A secured loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

"(d) SALE OF SECURED LOANS.—

"(1) IN GENERAL.—Subject to paragraph (2), as soon as practicable after substantial completion of a project and after notifying the obligor, the Secretary may sell to another entity or reoffer into the capital markets a secured loan for the project if the Secretary determines that the sale or reoffering can be made on favorable terms.

"(2) CONSENT OF OBLIGOR.—In making a sale or reoffering under paragraph (1), the Secretary may not change any original term or condition of the secured loan without the written consent of the obligor.

"(e) LOAN GUARANTEES.—

"(1) IN GENERAL.—The Secretary may provide a loan guarantee to a lender in lieu of making a secured loan under this section if the Secretary determines that the budgetary cost of the loan guarantee is substantially the same as, or less than, that of a secured loan.

"(2) TERMS.—The terms of a loan guarantee under paragraph (1) shall be consistent with the terms required under this section for a secured loan, except that the rate on the guaranteed loan and any prepayment features shall be negotiated between the obligor and the lender, with the consent of the Secretary.

"SEC. 999D. FUTURE GROWTH GRANTS.

"(a) ESTABLISHMENT.—The Secretary may provide grants to pay a portion of the cost differential, with respect to any projected future increase in demand for carbon dioxide transportation by an infrastructure project described in subsection (b), between—

"(1) the cost of constructing the infrastructure asset with the capacity to transport an increased flow rate of carbon dioxide, as made practicable under the project; and

"(2) the cost of constructing the infrastructure asset with the capacity to transport carbon dioxide at the flow rate initially required, based on commitments for the use of the asset.

"(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

"(1) be eligible to receive credit assistance under the CIFIA program;

"(2) carry out, or propose to carry out, a project for large-capacity, common carrier infrastructure with a probable future increase in demand for carbon dioxide transportation; and

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"(3) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary determines to be appropriate.

"(c) USE OF FUNDS.—A grant provided under this section may be used only to pay the costs of any additional flow rate capacity of a carbon dioxide transportation infrastructure asset that the project sponsor demonstrates to the satisfaction of the Secretary can reasonably be expected to be used during the 20-year period beginning on the date of substantial completion of the project described in subsection (b)(2).

"(d) MAXIMUM AMOUNT.—The amount of a grant provided under this section may not exceed an amount equal to 80 percent of the cost of the additional capacity described in subsection (a).

"SEC. 999E. PROGRAM ADMINISTRATION.

"(a) REQUIREMENT.—The Secretary shall establish a uniform system to service the Federal credit instruments provided under the CIFIA program.

"(b) FEES.—If funding sufficient to cover the costs of services of expert firms retained pursuant to subsection (d) and all or a portion of the costs to the Federal Government of servicing the Federal credit instruments is not provided in an appropriations Act for a fiscal year, the Secretary, during that fiscal year, may collect fees on or after the date of the financial close of a Federal credit instrument provided under the CIFIA program at a level that is sufficient to cover those costs.

"(c) SERVICER.—

"(1) IN GENERAL.—The Secretary may appoint a financial entity to assist the Secretary in servicing the Federal credit instruments.

"(2) DUTIES.—A servicer appointed under paragraph (1) shall act as the agent for the Secretary.

"(3) FEE.—A servicer appointed under paragraph (1) shall receive a servicing fee, subject to approval by the Secretary.

"(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms, including counsel, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.

"(e) EXPEDITED PROCESSING.—The Secretary shall implement procedures and measures to economize the time and cost involved in obtaining approval and the issuance of credit assistance under the CIFIA program.

"SEC. 999F. STATE AND LOCAL PERMITS.

"The provision of credit assistance under the CIFIA program with respect to a project shall not—

"(1) relieve any recipient of the assistance of any project obligation to obtain any required State or local permit or approval with respect to the project;

"(2) limit the right of any unit of State or local government to approve or regulate any rate of return on private equity invested in the project; or

"(3) otherwise supersede any State or local law (including any regulation) applicable to the construction or operation of the project.

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"SEC. 999G. REGULATIONS.

"The Secretary may promulgate such regulations as the Secretary determines to be appropriate to carry out the CIFIA program.

"SEC. 999H. AUTHORIZATION OF APPROPRIATIONS; CONTRACT AUTHORITY.

"(a) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this subtitle—

"(A) $600,000,000 for each of fiscal years 2022 and 2023; and

"(B) $300,000,000 for each of fiscal years 2024 through 2026.

"(2) SPENDING AND BORROWING AUTHORITY.—Spending and borrowing authority for a fiscal year to enter into Federal credit instruments shall be promptly apportioned to the Secretary on a fiscal-year basis.

"(3) REESTIMATES.—If the subsidy amount of a Federal credit instrument is reestimated, the cost increase or decrease of the reestimate shall be borne by, or benefit, the general fund of the Treasury, consistent with section 504(f) of the Congressional Budget Act of 1974 (2 U.S.C. 661c(f)).

"(4) ADMINISTRATIVE COSTS.—Of the amounts made available to carry out the CIFIA program, the Secretary may use not more than $9,000,000 (as indexed for United States dollar inflation from the date of enactment of the Infrastructure Investment and Jobs Act (as measured by the Consumer Price Index)) each fiscal year for the administration of the CIFIA program.

"(b) CONTRACT AUTHORITY.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, execution of a term sheet by the Secretary of a Federal credit instrument that uses amounts made available under the CIFIA program shall impose on the United States a contractual obligation to fund the Federal credit investment.

"(2) AVAILABILITY.—Amounts made available to carry out the CIFIA program for a fiscal year shall be available for obligation on October 1 of the fiscal year.".

(b) TECHNICAL AMENDMENTS.—The table of contents for the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 600) is amended—

(1) in the item relating to section 917, by striking "Efficiency";

(2) by striking the items relating to subtitle J of title IX (relating to ultra-deepwater and unconventional natural gas and other petroleum resources) and inserting the following:

"Subtitle J—Carbon Dioxide Transportation Infrastructure Finance and Innovation

"Sec. 999A. Definitions.
"Sec. 999B. Determination of eligibility and project selection.
"Sec. 999C. Secured loans.
"Sec. 999D. Future growth grants.
"Sec. 999E. Program administration.
"Sec. 999F. State and local permits.
"Sec. 999G. Regulations.
"Sec. 999H. Authorization of appropriations; contract authority."; and

(3) by striking the item relating to section 969B and inserting the following:

"Sec. 969B. High efficiency turbines.".

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SEC. 40305. CARBON STORAGE VALIDATION AND TESTING.

Section 963 of the Energy Policy Act of 2005 (42 U.S.C. 16293) is amended—

(1) in subsection (a)(1)(B), by striking "over a 10-year period";

(2) in subsection (b)—

(A) in paragraph (1), by striking "and demonstration" and inserting "demonstration, and commercialization"; and

(B) in paragraph (2)—

(i) in subparagraph (G), by striking "and" at the end;

(ii) in subparagraph (H), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(I) evaluating the quantity, location, and timing of geologic carbon storage deployment that may be needed, and developing strategies and resources to enable the deployment.";

(3) by redesignating subsections (e) through (g) as subsections (f) through (h), respectively;

(4) by inserting after subsection (d) the following:

"(e) LARGE-SCALE CARBON STORAGE COMMERCIALIZATION PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish a commercialization program under which the Secretary shall provide funding for the development of new or expanded commercial large-scale carbon sequestration projects and associated carbon dioxide transport infrastructure, including funding for the feasibility, site characterization, permitting, and construction stages of project development.

"(2) APPLICATIONS; SELECTION.—

"(A) IN GENERAL.—To be eligible to enter into an agreement with the Secretary for funding under paragraph (1), an entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary determines to be appropriate.

"(B) APPLICATION PROCESS.—The Secretary shall establish an application process that, to the maximum extent practicable—

"(i) is open to projects at any stage of development described in paragraph (1); and

"(ii) facilitates expeditious development of projects described in that paragraph.

"(C) PROJECT SELECTION.—In selecting projects for funding under paragraph (1), the Secretary shall give priority to—

"(i) projects with substantial carbon dioxide storage capacity; or

"(ii) projects that will store carbon dioxide from multiple carbon capture facilities.";

(5) in subsection (f) (as so redesignated), in paragraph (1), by inserting "with respect to the research, development, demonstration program components described in subsections (b) through (d)" before "give preference"; and

(6) by striking subsection (h) (as so redesignated) and inserting the following:

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"(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $2,500,000,000 for the period of fiscal years 2022 through 2026.".

SEC. 40306. SECURE GEOLOGIC STORAGE PERMITTING.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) CLASS VI WELL.—The term "Class VI well" means a well described in section 144.6(f) of title 40, Code of Federal Regulations (or successor regulations).

(b) AUTHORIZATION OF APPROPRIATIONS FOR GEOLOGIC SEQUESTRATION PERMITTING.—There is authorized to be appropriated to the Administrator for the permitting of Class VI wells by the Administrator for the injection of carbon dioxide for the purpose of geologic sequestration in accordance with the requirements of the Safe Drinking Water Act (42 U.S.C. 300f et seq.) and the final rule of the Administrator entitled "Federal Requirements Under the Underground Injection Control (UIC) Program for Carbon Dioxide (CO2) Geologic Sequestration (GS) Wells" (75 Fed. Reg. 77230 (December 10, 2010)), $5,000,000 for each of fiscal years 2022 through 2026.

(c) STATE PERMITTING PROGRAM GRANTS.—

(1) ESTABLISHMENT.—The Administrator shall award grants to States that, pursuant to section 1422 of the Safe Drinking Water Act (42 U.S.C. 300h–1), receive the approval of the Administrator for a State underground injection control program for permitting Class VI wells for the injection of carbon dioxide.

(2) USE OF FUNDS.—A State that receives a grant under paragraph (1) shall use the amounts received under the grant to defray the expenses of the State related to the establishment and operation of a State underground injection control program described in paragraph (1).

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this subsection $50,000,000 for the period of fiscal years 2022 through 2026.

SEC. 40307. GEOLOGIC CARBON SEQUESTRATION ON THE OUTER CONTINENTAL SHELF.

(a) DEFINITIONS.—Section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331) is amended—

(1) in the matter preceding subsection (a), by striking "When used in this Act—" and inserting "In this Act:";

(2) in each subsection, by inserting a subsection heading, the text of which is comprised of the term defined in the subsection;

(3) by striking the semicolon at the end of each subsection (other than subsection (q)) and "; and" at the end of subsection (p) and inserting a period; and

(4) by adding at the end the following:

"(r) CARBON DIOXIDE STREAM.—

"(1) IN GENERAL.—The term 'carbon dioxide stream' means carbon dioxide that—

"(A) has been captured; and

"(B) consists overwhelmingly of—

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"(i) carbon dioxide plus incidental associated substances derived from the source material or capture process; and

"(ii) any substances added to the stream for the purpose of enabling or improving the injection process.

"(2) EXCLUSIONS.—The term 'carbon dioxide stream' does not include additional waste or other matter added to the carbon dioxide stream for the purpose of disposal.

"(s) CARBON SEQUESTRATION.—The term 'carbon sequestration' means the act of storing carbon dioxide that has been removed from the atmosphere or captured through physical, chemical, or biological processes that can prevent the carbon dioxide from reaching the atmosphere.".

(b) LEASES, EASEMENTS, OR RIGHTS-OF-WAY FOR ENERGY AND RELATED PURPOSES.—Section 8(p)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(p)(1)) is amended—

(1) in subparagraph (C), by striking "or" after the semicolon;

(2) in subparagraph (D), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(E) provide for, support, or are directly related to the injection of a carbon dioxide stream into sub-seabed geologic formations for the purpose of long-term carbon sequestration.".

(c) CLARIFICATION.—A carbon dioxide stream injected for the purpose of carbon sequestration under subparagraph (E) of section 8(p)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(p)(1)) shall not be considered to be material (as defined in section 3 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1402)) for purposes of that Act (33 U.S.C. 1401 et seq.).

(d) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior shall promulgate regulations to carry out the amendments made by this section.

SEC. 40308. CARBON REMOVAL.

(a) IN GENERAL.—Section 969D of the Energy Policy Act of 2005 (42 U.S.C. 16298d) is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following:

"(j) REGIONAL DIRECT AIR CAPTURE HUBS.—

"(1) DEFINITIONS.—In this subsection:

"(A) ELIGIBLE PROJECT.—The term 'eligible project' means a direct air capture project or a component project of a regional direct air capture hub.

"(B) REGIONAL DIRECT AIR CAPTURE HUB.—The term 'regional direct air capture hub' means a network of direct air capture projects, potential carbon dioxide utilization off-takers, connective carbon dioxide transport infrastructure, subsurface resources, and sequestration infrastructure located within a region.

"(2) ESTABLISHMENT OF PROGRAM.—

"(A) IN GENERAL.—The Secretary shall establish a program under which the Secretary shall provide funding for eligible projects that contribute to the development of 4

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regional direct air capture hubs described in subparagraph (B).

"(B) REGIONAL DIRECT AIR CAPTURE HUBS.—Each of the 4 regional direct air capture hubs developed under the program under subparagraph (A) shall be a regional direct air capture hub that—

"(i) facilitates the deployment of direct air capture projects;

"(ii) has the capacity to capture and sequester, utilize, or sequester and utilize at least 1,000,000 metric tons of carbon dioxide from the atmosphere annually from a single unit or multiple interconnected units;

"(iii) demonstrates the capture, processing, delivery, and sequestration or end-use of captured carbon; and

"(iv) could be developed into a regional or inter-regional carbon network to facilitate sequestration or carbon utilization.

"(3) SELECTION OF PROJECTS.—

"(A) SOLICITATION OF PROPOSALS.—

"(i) IN GENERAL.—Not later than 180 days after the date of enactment of the Infrastructure Investment and Jobs Act, the Secretary shall solicit applications for funding for eligible projects.

"(ii) ADDITIONAL SOLICITATIONS.—The Secretary shall solicit applications for funding for eligible projects on a recurring basis after the first round of applications is received under clause (i) until all amounts appropriated to carry out this subsection are expended.

"(B) SELECTION OF PROJECTS FOR THE DEVELOPMENT OF REGIONAL DIRECT AIR CAPTURE HUBS.—Not later than 3 years after the date of the deadline for the submission of proposals under subparagraph (A)(i), the Secretary shall select eligible projects described in paragraph (2)(A).

"(C) CRITERIA.—The Secretary shall select eligible projects under subparagraph (B) using the following criteria:

"(i) CARBON INTENSITY OF LOCAL INDUSTRY.—To the maximum extent practicable, each eligible project shall be located in a region with—

"(I) existing carbon-intensive fuel production or industrial capacity; or

"(II) carbon-intensive fuel production or industrial capacity that has retired or closed in the preceding 10 years.

"(ii) GEOGRAPHIC DIVERSITY.—To the maximum extent practicable, eligible projects shall contribute to the development of regional direct air capture hubs located in different regions of the United States.

"(iii) CARBON POTENTIAL.—To the maximum extent practicable, eligible projects shall contribute to the development of regional direct air capture hubs located in regions with high potential for carbon sequestration or utilization.

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"(iv) HUBS IN FOSSIL-PRODUCING REGIONS.—To the maximum extent practicable, eligible projects shall contribute to the development of at least 2 regional direct air capture hubs located in economically distressed communities in the regions of the United States with high levels of coal, oil, or natural gas resources.

"(v) SCALABILITY.—The Secretary shall give priority to eligible projects that, as compared to other eligible projects, will contribute to the development of regional direct air capture hubs with larger initial capacity, greater potential for expansion, and lower levelized cost per ton of carbon dioxide removed from the atmosphere.

"(vi) EMPLOYMENT.—The Secretary shall give priority to eligible projects that are likely to create opportunities for skilled training and long-term employment to the greatest number of residents of the region.

"(vii) ADDITIONAL CRITERIA.—The Secretary may take into consideration other criteria that, in the judgment of the Secretary, are necessary or appropriate to carry out this subsection.

"(D) COORDINATION.—To the maximum extent practicable, in carrying out the program under this subsection, the Secretary shall take into account and coordinate with activities of the carbon capture technology program established under section 962(b)(1), the carbon storage validation and testing program established under section 963(b)(1), and the CIFIA program established under section 999B(a) such that funding from each of the programs is leveraged to contribute toward the development of integrated regional and interregional carbon capture, removal, transport, sequestration, and utilization networks.

"(E) FUNDING OF ELIGIBLE PROJECTS.—The Secretary may make grants to, or enter into cooperative agreements or contracts with, each eligible project selected under subparagraph (B) to accelerate commercialization of, and demonstrate the removal, processing, transport, sequestration, and utilization of, carbon dioxide captured from the atmosphere.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this subsection $3,500,000,000 for the period of fiscal years 2022 through 2026, to remain available until expended.".

Subtitle B—Hydrogen Research and Development

SEC. 40311. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) hydrogen plays a critical part in the comprehensive energy portfolio of the United States;

(2) the use of the hydrogen resources of the United States—

(A) promotes energy security and resilience; and

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(B) provides economic value and environmental benefits for diverse applications across multiple sectors of the economy; and

(3) hydrogen can be produced from a variety of domestically available clean energy sources, including—

(A) renewable energy resources, including biomass;

(B) fossil fuels with carbon capture, utilization, and storage; and

(C) nuclear power.

(b) PURPOSE.—The purpose of this subtitle is to accelerate research, development, demonstration, and deployment of hydrogen from clean energy sources by—

(1) providing a statutory definition for the term "clean hydrogen";

(2) establishing a clean hydrogen strategy and roadmap for the United States;

(3) establishing a clearing house for clean hydrogen program information at the National Energy Technology Laboratory;

(4) developing a robust clean hydrogen supply chain and workforce by prioritizing clean hydrogen demonstration projects in major shale gas regions;

(5) establishing regional clean hydrogen hubs; and

(6) authorizing appropriations to carry out the Department of Energy Hydrogen Program Plan, dated November 2020, developed pursuant to title VIII of the Energy Policy Act of 2005 (42 U.S.C. 16151 et seq.).

SEC. 40312. DEFINITIONS.

Section 803 of the Energy Policy Act of 2005 (42 U.S.C. 16152) is amended—

(1) in paragraph (5), by striking the paragraph designation and heading and all that follows through "when" in the matter preceding subparagraph (A) and inserting the following:

"(5) PORTABLE; STORAGE.—The terms 'portable' and 'storage', when";

(2) by redesignating paragraphs (1) through (7) as paragraphs (2) through (8), respectively; and

(3) by inserting before paragraph (2) (as so redesignated) the following:

"(1) CLEAN HYDROGEN; HYDROGEN.—The terms 'clean hydrogen' and 'hydrogen' mean hydrogen produced in compliance with the greenhouse gas emissions standard established under section 822(a), including production from any fuel source.".

SEC. 40313. CLEAN HYDROGEN RESEARCH AND DEVELOPMENT PROGRAM.

(a) IN GENERAL.—Section 805 of the Energy Policy Act of 2005 (42 U.S. 16154) is amended—

(1) in the section heading, by striking "**PROGRAMS**" and inserting "**CLEAN HYDROGEN RESEARCH AND DEVELOPMENT PROGRAM**";

(2) in subsection (a)—

(A) by striking "research and development program" and inserting "crosscutting research and development program (referred to in this section as the 'program')"; and

(B) by inserting "processing," after "production,";

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(3) by striking subsection (b) and inserting the following:

"(b) GOALS.—The goals of the program shall be—

"(1) to advance research and development to demonstrate and commercialize the use of clean hydrogen in the transportation, utility, industrial, commercial, and residential sectors; and

"(2) to demonstrate a standard of clean hydrogen production in the transportation, utility, industrial, commercial, and residential sectors by 2040.";

(4) in subsection (c)(3), by striking "renewable fuels and biofuels" and inserting "fossil fuels with carbon capture, utilization, and sequestration, renewable fuels, biofuels, and nuclear energy";

(5) by striking subsection (e) and inserting the following:

"(e) ACTIVITIES.—In carrying out the program, the Secretary, in partnership with the private sector, shall conduct activities to advance and support—

"(1) the establishment of a series of technology cost goals oriented toward achieving the standard of clean hydrogen production developed under section 822(a);

"(2) the production of clean hydrogen from diverse energy sources, including—

"(A) fossil fuels with carbon capture, utilization, and sequestration;

"(B) hydrogen-carrier fuels (including ethanol and methanol);

"(C) renewable energy resources, including biomass;

"(D) nuclear energy; and

"(E) any other methods the Secretary determines to be appropriate;

"(3) the use of clean hydrogen for commercial, industrial, and residential electric power generation;

"(4) the use of clean hydrogen in industrial applications, including steelmaking, cement, chemical feedstocks, and process heat;

"(5) the use of clean hydrogen for use as a fuel source for both residential and commercial comfort heating and hot water requirements;

"(6) the safe and efficient delivery of hydrogen or hydrogen-carrier fuels, including—

"(A) transmission by pipelines, including retrofitting the existing natural gas transportation infrastructure system to enable a transition to transport and deliver increasing levels of clean hydrogen, clean hydrogen blends, or clean hydrogen carriers;

"(B) tanks and other distribution methods; and

"(C) convenient and economic refueling of vehicles, locomotives, maritime vessels, or planes—

"(i) at central refueling stations; or

"(ii) through distributed onsite generation;

"(7) advanced vehicle, locomotive, maritime vessel, or plane technologies, including—

"(A) engine and emission control systems;

"(B) energy storage, electric propulsion, and hybrid systems;

"(C) automotive, locomotive, maritime vessel, or plane materials; and

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"(D) other advanced vehicle, locomotive, maritime vessel, or plane technologies;

"(8) storage of hydrogen or hydrogen-carrier fuels, including the development of materials for safe and economic storage in gaseous, liquid, or solid form;

"(9) the development of safe, durable, affordable, and efficient fuel cells, including fuel-flexible fuel cell power systems, improved manufacturing processes, high-temperature membranes, cost-effective fuel processing for natural gas, fuel cell stack and system reliability, low-temperature operation, and cold start capability;

"(10) the ability of domestic clean hydrogen equipment manufacturers to manufacture commercially available competitive technologies in the United States;

"(11) the use of clean hydrogen in the transportation sector, including in light-, medium-, and heavy-duty vehicles, rail transport, aviation, and maritime applications; and

"(12) in coordination with relevant agencies, the development of appropriate, uniform codes and standards for the safe and consistent deployment and commercialization of clean hydrogen production, processing, delivery, and end-use technologies."; and

(6) by adding at the end the following:

"(j) TARGETS.—Not later than 180 days after the date of enactment of the Infrastructure Investment and Jobs Act, the Secretary shall establish targets for the program to address near-term (up to 2 years), mid-term (up to 7 years), and long-term (up to 15 years) challenges to the advancement of clean hydrogen systems and technologies.".

(b) CONFORMING AMENDMENT.—The table of contents for the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 599) is amended by striking the item relating to section 805 and inserting the following:

"Sec. 805. Clean hydrogen research and development program.".

SEC. 40314. ADDITIONAL CLEAN HYDROGEN PROGRAMS.

Title VIII of the Energy Policy Act of 2005 (42 U.S.C. 16151 et seq.) is amended—

(1) by redesignating sections 813 through 816 as sections 818 through 821, respectively; and

(2) by inserting after section 812 the following:

"SEC. 813. REGIONAL CLEAN HYDROGEN HUBS.

"(a) DEFINITION OF REGIONAL CLEAN HYDROGEN HUB.—In this section, the term 'regional clean hydrogen hub' means a network of clean hydrogen producers, potential clean hydrogen consumers, and connective infrastructure located in close proximity.

"(b) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to support the development of at least 4 regional clean hydrogen hubs that—

"(1) demonstrably aid the achievement of the clean hydrogen production standard developed under section 822(a);

"(2) demonstrate the production, processing, delivery, storage, and end-use of clean hydrogen; and

"(3) can be developed into a national clean hydrogen network to facilitate a clean hydrogen economy.

"(c) SELECTION OF REGIONAL CLEAN HYDROGEN HUBS.—

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"(1) SOLICITATION OF PROPOSALS.—Not later than 180 days after the date of enactment of the Infrastructure Investment and Jobs Act, the Secretary shall solicit proposals for regional clean hydrogen hubs.

"(2) SELECTION OF HUBS.—Not later than 1 year after the deadline for the submission of proposals under paragraph (1), the Secretary shall select at least 4 regional clean hydrogen hubs to be developed under subsection (b).

"(3) CRITERIA.—The Secretary shall select regional clean hydrogen hubs under paragraph (2) using the following criteria:

"(A) FEEDSTOCK DIVERSITY.—To the maximum extent practicable—

"(i) at least 1 regional clean hydrogen hub shall demonstrate the production of clean hydrogen from fossil fuels;

"(ii) at least 1 regional clean hydrogen hub shall demonstrate the production of clean hydrogen from renewable energy; and

"(iii) at least 1 regional clean hydrogen hub shall demonstrate the production of clean hydrogen from nuclear energy.

"(B) END-USE DIVERSITY.—To the maximum extent practicable—

"(i) at least 1 regional clean hydrogen hub shall demonstrate the end-use of clean hydrogen in the electric power generation sector;

"(ii) at least 1 regional clean hydrogen hub shall demonstrate the end-use of clean hydrogen in the industrial sector;

"(iii) at least 1 regional clean hydrogen hub shall demonstrate the end-use of clean hydrogen in the residential and commercial heating sector; and

"(iv) at least 1 regional clean hydrogen hub shall demonstrate the end-use of clean hydrogen in the transportation sector.

"(C) GEOGRAPHIC DIVERSITY.—To the maximum extent practicable, each regional clean hydrogen hub—

"(i) shall be located in a different region of the United States; and

"(ii) shall use energy resources that are abundant in that region.

"(D) HUBS IN NATURAL GAS-PRODUCING REGIONS.—To the maximum extent practicable, at least 2 regional clean hydrogen hubs shall be located in the regions of the United States with the greatest natural gas resources.

"(E) EMPLOYMENT.—The Secretary shall give priority to regional clean hydrogen hubs that are likely to create opportunities for skilled training and long-term employment to the greatest number of residents of the region.

"(F) ADDITIONAL CRITERIA.—The Secretary may take into consideration other criteria that, in the judgment of the Secretary, are necessary or appropriate to carry out this title

"(4) FUNDING OF REGIONAL CLEAN HYDROGEN HUBS.—The Secretary may make grants to each regional clean hydrogen

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hub selected under paragraph (2) to accelerate commercialization of, and demonstrate the production, processing, delivery, storage, and end-use of, clean hydrogen.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $8,000,000,000 for the period of fiscal years 2022 through 2026.

"SEC. 814. NATIONAL CLEAN HYDROGEN STRATEGY AND ROADMAP.

"(a) DEVELOPMENT.—

"(1) IN GENERAL.—In carrying out the programs established under sections 805 and 813, the Secretary, in consultation with the heads of relevant offices of the Department, shall develop a technologically and economically feasible national strategy and roadmap to facilitate widescale production, processing, delivery, storage, and use of clean hydrogen.

"(2) INCLUSIONS.—The national clean hydrogen strategy and roadmap developed under paragraph (1) shall focus on—

"(A) establishing a standard of hydrogen production that achieves the standard developed under section 822(a), including interim goals towards meeting that standard;

"(B)(i) clean hydrogen production and use from natural gas, coal, renewable energy sources, nuclear energy, and biomass; and

"(ii) identifying potential barriers, pathways, and opportunities, including Federal policy needs, to transition to a clean hydrogen economy;

"(C) identifying—

"(i) economic opportunities for the production, processing, transport, storage, and use of clean hydrogen that exist in the major shale natural gas-producing regions of the United States;

"(ii) economic opportunities for the production, processing, transport, storage, and use of clean hydrogen that exist for merchant nuclear power plants operating in deregulated markets; and

"(iii) environmental risks associated with potential deployment of clean hydrogen technologies in those regions, and ways to mitigate those risks;

"(D) approaches, including substrategies, that reflect geographic diversity across the country, to advance clean hydrogen based on resources, industry sectors, environmental benefits, and economic impacts in regional economies;

"(E) identifying opportunities to use, and barriers to using, existing infrastructure, including all components of the natural gas infrastructure system, the carbon dioxide pipeline infrastructure system, end-use local distribution networks, end-use power generators, LNG terminals, industrial users of natural gas, and residential and commercial consumers of natural gas, for clean hydrogen deployment;

"(F) identifying the needs for and barriers and pathways to developing clean hydrogen hubs (including, where appropriate, clean hydrogen hubs coupled with carbon capture, utilization, and storage hubs) that—

"(i) are regionally dispersed across the United States and can leverage natural gas to the maximum extent practicable;

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"(ii) can demonstrate the efficient production, processing, delivery, and use of clean hydrogen;

"(iii) include transportation corridors and modes of transportation, including transportation of clean hydrogen by pipeline and rail and through ports; and

"(iv) where appropriate, could serve as joint clean hydrogen and carbon capture, utilization, and storage hubs;

"(G) prioritizing activities that improve the ability of the Department to develop tools to model, analyze, and optimize single-input, multiple-output integrated hybrid energy systems and multiple-input, multiple-output integrated hybrid energy systems that maximize efficiency in providing hydrogen, high-value heat, electricity, and chemical synthesis services;

"(H) identifying the appropriate points of interaction between and among Federal agencies involved in the production, processing, delivery, storage, and use of clean hydrogen and clarifying the responsibilities of those Federal agencies, and potential regulatory obstacles and recommendations for modifications, in order to support the deployment of clean hydrogen; and

"(I) identifying geographic zones or regions in which clean hydrogen technologies could efficiently and economically be introduced in order to transition existing infrastructure to rely on clean hydrogen, in support of decarbonizing all relevant sectors of the economy.

"(b) REPORTS TO CONGRESS.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Infrastructure Investment and Jobs Act, the Secretary shall submit to Congress the clean hydrogen strategy and roadmap developed under subsection (a).

"(2) UPDATES.—The Secretary shall submit to Congress updates to the clean hydrogen strategy and roadmap under paragraph (1) not less frequently than once every 3 years after the date on which the Secretary initially submits the report and roadmap.

"SEC. 815. CLEAN HYDROGEN MANUFACTURING AND RECYCLING.

"(a) CLEAN HYDROGEN MANUFACTURING INITIATIVE.—

"(1) IN GENERAL.—In carrying out the programs established under sections 805 and 813, the Secretary shall award multiyear grants to, and enter into contracts, cooperative agreements, or any other agreements authorized under this Act or other Federal law with, eligible entities (as determined by the Secretary) for research, development, and demonstration projects to advance new clean hydrogen production, processing, delivery, storage, and use equipment manufacturing technologies and techniques.

"(2) PRIORITY.—In awarding grants or entering into contracts, cooperative agreements, or other agreements under paragraph (1), the Secretary, to the maximum extent practicable, shall give priority to clean hydrogen equipment manufacturing projects that—

"(A) increase efficiency and cost-effectiveness in—

"(i) the manufacturing process; and

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"(ii) the use of resources, including existing energy infrastructure;

"(B) support domestic supply chains for materials and components;

"(C) identify and incorporate nonhazardous alternative materials for components and devices;

"(D) operate in partnership with tribal energy development organizations, Indian Tribes, Tribal organizations, Native Hawaiian community-based organizations, or territories or freely associated States; or

"(E) are located in economically distressed areas of the major natural gas-producing regions of the United States.

"(3) EVALUATION.—Not later than 3 years after the date of enactment of the Infrastructure Investment and Jobs Act, and not less frequently than once every 4 years thereafter, the Secretary shall conduct, and make available to the public and the relevant committees of Congress, an independent review of the progress of the projects carried out through grants awarded, or contracts, cooperative agreements, or other agreements entered into, under paragraph (1).

"(b) CLEAN HYDROGEN TECHNOLOGY RECYCLING RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM.—

"(1) IN GENERAL.—In carrying out the programs established under sections 805 and 813, the Secretary shall award multiyear grants to, and enter into contracts, cooperative agreements, or any other agreements authorized under this Act or other Federal law with, eligible entities for research, development, and demonstration projects to create innovative and practical approaches to increase the reuse and recycling of clean hydrogen technologies, including by—

"(A) increasing the efficiency and cost-effectiveness of the recovery of raw materials from clean hydrogen technology components and systems, including enabling technologies such as electrolyzers and fuel cells;

"(B) minimizing environmental impacts from the recovery and disposal processes;

"(C) addressing any barriers to the research, development, demonstration, and commercialization of technologies and processes for the disassembly and recycling of devices used for clean hydrogen production, processing, delivery, storage, and use;

"(D) developing alternative materials, designs, manufacturing processes, and other aspects of clean hydrogen technologies;

"(E) developing alternative disassembly and resource recovery processes that enable efficient, cost-effective, and environmentally responsible disassembly of, and resource recovery from, clean hydrogen technologies; and

"(F) developing strategies to increase consumer acceptance of, and participation in, the recycling of fuel cells.

"(2) DISSEMINATION OF RESULTS.—The Secretary shall make available to the public and the relevant committees of Congress the results of the projects carried out through grants awarded, or contracts, cooperative agreements, or other agreements entered into, under paragraph (1), including any educational and outreach materials developed by the projects.

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"(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $500,000,000 for the period of fiscal years 2022 through 2026.

"SEC. 816. CLEAN HYDROGEN ELECTROLYSIS PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) ELECTROLYSIS.—The term 'electrolysis' means a process that uses electricity to split water into hydrogen and oxygen.

"(2) ELECTROLYZER.—The term 'electrolyzer' means a system that produces hydrogen using electrolysis.

"(3) PROGRAM.—The term 'program' means the program established under subsection (b).

"(b) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Infrastructure Investment and Jobs Act, the Secretary shall establish a research, development, demonstration, commercialization, and deployment program for purposes of commercialization to improve the efficiency, increase the durability, and reduce the cost of producing clean hydrogen using electrolyzers.

"(c) GOALS.—The goals of the program are—

"(1) to reduce the cost of hydrogen produced using electrolyzers to less than $2 per kilogram of hydrogen by 2026; and

"(2) any other goals the Secretary determines are appropriate.

"(d) DEMONSTRATION PROJECTS.—In carrying out the program, the Secretary shall fund demonstration projects—

"(1) to demonstrate technologies that produce clean hydrogen using electrolyzers; and

"(2) to validate information on the cost, efficiency, durability, and feasibility of commercial deployment of the technologies described in paragraph (1).

"(e) FOCUS.—The program shall focus on research relating to, and the development, demonstration, and deployment of—

"(1) low-temperature electrolyzers, including liquid-alkaline electrolyzers, membrane-based electrolyzers, and other advanced electrolyzers, capable of converting intermittent sources of electric power to clean hydrogen with enhanced efficiency and durability;

"(2) high-temperature electrolyzers that combine electricity and heat to improve the efficiency of clean hydrogen production;

"(3) advanced reversible fuel cells that combine the functionality of an electrolyzer and a fuel cell;

"(4) new highly active, selective, and durable electrolyzer catalysts and electro-catalysts that—

"(A) greatly reduce or eliminate the need for platinum group metals; and

"(B) enable electrolysis of complex mixtures with impurities, including seawater;

"(5) modular electrolyzers for distributed energy systems and the bulk-power system (as defined in section 215(a) of the Federal Power Act (16 U.S.C. 824o(a)));

"(6) low-cost membranes or electrolytes and separation materials that are durable in the presence of impurities or seawater;

"(7) improved component design and material integration, including with respect to electrodes, porous transport layers and bipolar plates, and balance-of-system components, to allow

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for scale-up and domestic manufacturing of electrolyzers at a high volume;

"(8) clean hydrogen storage technologies;

"(9) technologies that integrate hydrogen production with—

"(A) clean hydrogen compression and drying technologies;

"(B) clean hydrogen storage; and

"(C) transportation or stationary systems; and

"(10) integrated systems that combine hydrogen production with renewable power or nuclear power generation technologies, including hybrid systems with hydrogen storage.

"(f) GRANTS, CONTRACTS, COOPERATIVE AGREEMENTS.—

"(1) GRANTS.—In carrying out the program, the Secretary shall award grants, on a competitive basis, to eligible entities for projects that the Secretary determines would provide the greatest progress toward achieving the goal of the program described in subsection (c).

"(2) CONTRACTS AND COOPERATIVE AGREEMENTS.—In carrying out the program, the Secretary may enter into contracts and cooperative agreements with eligible entities and Federal agencies for projects that the Secretary determines would further the purpose of the program described in subsection (b).

"(3) ELIGIBILITY; APPLICATIONS.—

"(A) IN GENERAL.—The eligibility of an entity to receive a grant under paragraph (1), to enter into a contract or cooperative agreement under paragraph (2), or to receive funding for a demonstration project under subsection (d) shall be determined by the Secretary.

"(B) APPLICATIONS.—An eligible entity desiring to receive a grant under paragraph (1), to enter into a contract or cooperative agreement under paragraph (2), or to receive funding for a demonstration project under subsection (d) shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out the program $1,000,000,000 for the period of fiscal years 2022 through 2026, to remain available until expended.

"SEC. 817. LABORATORY MANAGEMENT.

"(a) IN GENERAL.—The National Energy Technology Laboratory, the Idaho National Laboratory, and the National Renewable Energy Laboratory shall continue to work in a crosscutting manner to carry out the programs established under sections 813 and 815.

"(b) COORDINATION; CLEARINGHOUSE.—In carrying out subsection (a), the National Energy Technology Laboratory shall—

"(1) coordinate with—

"(A) the Idaho National Laboratory, the National Renewable Energy Laboratory, and other National Laboratories in a cross-cutting manner;

"(B) institutions of higher education;

"(C) research institutes;

"(D) industrial researchers; and

"(E) international researchers; and

"(2) act as a clearinghouse to collect information from, and distribute information to, the National Laboratories and

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other entities described in subparagraphs (B) through (E) of paragraph (1).".

SEC. 40315. CLEAN HYDROGEN PRODUCTION QUALIFICATIONS.

(a) IN GENERAL.—The Energy Policy Act of 2005 (42 U.S.C. 16151 et seq.) (as amended by section 40314(1)) is amended by adding at the end the following:

"SEC. 822. CLEAN HYDROGEN PRODUCTION QUALIFICATIONS.

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of the Infrastructure Investment and Jobs Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency and after taking into account input from industry and other stakeholders, as determined by the Secretary, shall develop an initial standard for the carbon intensity of clean hydrogen production that shall apply to activities carried out under this title.

"(b) REQUIREMENTS.—

"(1) IN GENERAL.—The standard developed under subsection (a) shall—

"(A) support clean hydrogen production from each source described in section 805(e)(2);

"(B) define the term 'clean hydrogen' to mean hydrogen produced with a carbon intensity equal to or less than 2 kilograms of carbon dioxide-equivalent produced at the site of production per kilogram of hydrogen produced; and

"(C) take into consideration technological and economic feasibility.

"(2) ADJUSTMENT.—Not later than the date that is 5 years after the date on which the Secretary develops the standard under subsection (a), the Secretary, in consultation with the Administrator of the Environmental Protection Agency and after taking into account input from industry and other stakeholders, as determined by the Secretary, shall—

"(A) determine whether the definition of clean hydrogen required under paragraph (1)(B) should be adjusted below the standard described in that paragraph; and

"(B) if the Secretary determines the adjustment described in subparagraph (A) is appropriate, carry out the adjustment.

"(c) APPLICATION.—The standard developed under subsection (a) shall apply to clean hydrogen production from renewable, fossil fuel with carbon capture, utilization, and sequestration technologies, nuclear, and other fuel sources using any applicable production technology.".

(b) CONFORMING AMENDMENT.—The table of contents for the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 599) is amended by striking the items relating to sections 813 through 816 and inserting the following:

"Sec. 813. Regional clean hydrogen hubs.
"Sec. 814. National clean hydrogen strategy and roadmap.
"Sec. 815. Clean hydrogen manufacturing and recycling.
"Sec. 816. Clean hydrogen electrolysis program.
"Sec. 817. Laboratory management.
"Sec. 818. Technology transfer
"Sec. 819. Miscellaneous provisions.
"Sec. 820. Cost sharing.
"Sec. 821. Savings clause.
"Sec. 822. Clean hydrogen production qualifications.".

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Subtitle C—Nuclear Energy Infrastructure

SEC. 40321. INFRASTRUCTURE PLANNING FOR MICRO AND SMALL MODULAR NUCLEAR REACTORS.

(a) DEFINITIONS.—In this section:

(1) ADVANCED NUCLEAR REACTOR.— The term "advanced nuclear reactor" has the meaning given the term in section 951(b) of the Energy Policy Act of 2005 (42 U.S.C. 16271(b)).

(2) ISOLATED COMMUNITY.—The term "isolated community" has the meaning given the term in section 8011(a) of the Energy Act of 2020 (42 U.S.C. 17392(a)).

(3) MICRO-REACTOR.—The term "micro-reactor" means an advanced nuclear reactor that has an electric power production capacity that is not greater than 50 megawatts.

(4) NATIONAL LABORATORY.—The term "National Laboratory" has the meaning given the term in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801).

(5) SMALL MODULAR REACTOR.—The term "small modular reactor" means an advanced nuclear reactor—

(A) with a rated capacity of less than 300 electrical megawatts; and

(B) that can be constructed and operated in combination with similar reactors at a single site.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committees on Energy and Commerce and Science, Space, and Technology of the House of Representatives a report that describes how the Department could enhance energy resilience and reduce carbon emissions with the use of micro-reactors and small modular reactors.

(c) ELEMENTS.—The report required by subsection (b) shall address the following:

(1) An evaluation by the Department of current resilience and carbon reduction requirements for energy for facilities of the Department to determine whether changes are needed to address—

(A) the need to provide uninterrupted power to facilities of the Department for at least 3 days during power grid failures;

(B) the need for protection against cyber threats and electromagnetic pulses; and

(C) resilience to extreme natural events, including earthquakes, volcanic activity, tornados, hurricanes, floods, tsunamis, lahars, landslides, seiches, a large quantity of snowfall, and very low or high temperatures.

(2) A strategy of the Department for using nuclear energy to meet resilience and carbon reduction goals of facilities of the Department.

(3) A strategy to partner with private industry to develop and deploy micro-reactors and small modular reactors to remote communities in order to replace diesel generation and other fossil fuels.

(4) An assessment by the Department of the value associated with enhancing the resilience of a facility of the Department by transitioning to power from micro-reactors and small

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modular reactors and to co-located nuclear facilities with the capability to provide dedicated power to the facility of the Department during a grid outage or failure.

(5) The plans of the Department—

(A) for deploying a micro-reactor and a small modular reactor to produce energy for use by a facility of the Department in the United States by 2026;

(B) for deploying a small modular reactor to produce energy for use by a facility of the Department in the United States by 2029; and

(C) to include micro-reactors and small modular reactors in the planning for meeting future facility energy needs.

(d) FINANCIAL AND TECHNICAL ASSISTANCE FOR SITING MICRO-REACTORS, SMALL MODULAR REACTORS, AND ADVANCED NUCLEAR REACTORS.—

(1) IN GENERAL.—The Secretary shall offer financial and technical assistance to entities to conduct feasibility studies for the purpose of identifying suitable locations for the deployment of micro-reactors, small modular reactors, and advanced nuclear reactors in isolated communities.

(2) REQUIREMENT.—Prior to providing financial and technical assistance under paragraph (1), the Secretary shall conduct robust community engagement and outreach for the purpose of identifying levels of interest in isolated communities.

(3) LIMITATION.—The Secretary shall not disburse more than 50 percent of the amounts available for financial assistance under this subsection to the National Laboratories.

SEC. 40322. PROPERTY INTERESTS RELATING TO CERTAIN PROJECTS AND PROTECTION OF INFORMATION RELATING TO CERTAIN AGREEMENTS.

(a) PROPERTY INTERESTS RELATING TO FEDERALLY FUNDED ADVANCED NUCLEAR REACTOR PROJECTS.—

(1) DEFINITIONS.—In this section:

(A) ADVANCED NUCLEAR REACTOR.—The term "advanced nuclear reactor" has the meaning given the term in section 951(b) of the Energy Policy Act of 2005 (42 U.S.C. 16271(b)).

(B) PROPERTY INTEREST.—

(i) IN GENERAL.—Except as provided in clause (ii), the term "property interest" means any interest in real property or personal property (as those terms are defined in section 200.1 of title 2, Code of Federal Regulations (as in effect on the date of enactment of this Act)).

(ii) EXCLUSION.—The term "property interest" does not include any interest in intellectual property developed using funding provided under a project described in paragraph (3).

(2) ASSIGNMENT OF PROPERTY INTERESTS.—The Secretary may assign to any entity, including the United States, fee title or any other property interest acquired by the Secretary under an agreement entered into with respect to a project described in paragraph (3).

(3) PROJECT DESCRIBED.—A project referred to in paragraph (2) is—

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(A) a project for which funding is provided pursuant to the funding opportunity announcement of the Department numbered DE–FOA–0002271, including any project for which funding has been provided pursuant to that announcement as of the date of enactment of this Act;

(B) any other project for which funding is provided using amounts made available for the Advanced Reactor Demonstration Program of the Department under the heading "Nuclear Energy" under the heading "ENERGY PROGRAMS" in title III of division C of the Further Consolidated Appropriations Act, 2020 (Public Law 116–94; 133 Stat. 2670);

(C) any other project for which Federal funding is provided under the Advanced Reactor Demonstration Program of the Department; or

(D) a project—

(i) relating to advanced nuclear reactors; and

(ii) for which Federal funding is provided under a program focused on development and demonstration.

(4) RETROACTIVE VESTING.—The vesting of fee title or any other property interest assigned under paragraph (2) shall be retroactive to the date on which the applicable project first received Federal funding as described in any of subparagraphs (A) through (D) of paragraph (3).

(b) CONSIDERATIONS IN COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.—

(1) IN GENERAL.—Section 12(c)(7)(B) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(7)(B)) is amended—

(A) by inserting "(i)" after "(B)";

(B) in clause (i), as so designated, by striking "The director" and inserting "Subject to clause (ii), the director"; and

(C) by adding at the end the following:

"(II) The agency may authorize the director to provide appropriate protections against dissemination described in clause (i) for a total period of not more than 30 years if the agency determines that the nature of the information protected against dissemination, including nuclear technology, could reasonably require an extended period of that protection to reach commercialization.".

(2) APPLICABILITY.—

(A) DEFINITION.—In this subsection, the term "cooperative research and development agreement" has the meaning given the term in section 12(d) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)).

(B) RETROACTIVE EFFECT.—Clause (ii) of section 12(c)(7)(B) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(7)(B)), as added by subsection (a) of this section, shall apply with respect to any cooperative research and development agreement that is in effect as of the day before the date of enactment of this Act.

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(c) DEPARTMENT OF ENERGY CONTRACTS.—Section 646(g)(5) of the Department of Energy Organization Act (42 U.S.C. 7256(g)(5)) is amended—

(1) by striking "(5) The Secretary" and inserting the following:

"(5) PROTECTION FROM DISCLOSURE.—

"(A) IN GENERAL.—The Secretary"; and

(2) in subparagraph (A) (as so designated)—

(A) by striking ", for up to 5 years after the date on which the information is developed,"; and

(B) by striking "agency." and inserting the following: "agency—

"(i) for up to 5 years after the date on which the information is developed; or

"(ii) for up to 30 years after the date on which the information is developed, if the Secretary determines that the nature of the technology under the transaction, including nuclear technology, could reasonably require an extended period of protection from disclosure to reach commercialization.

"(B) EXTENSION DURING TERM.—The Secretary may extend the period of protection from disclosure during the term of any transaction described in subparagraph (A) in accordance with that subparagraph.".

SEC. 40323. CIVIL NUCLEAR CREDIT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) CERTIFIED NUCLEAR REACTOR.—The term "certified nuclear reactor" means a nuclear reactor that—

(A) competes in a competitive electricity market; and

(B) is certified under subsection (c)(2)(A)(i) to submit a sealed bid in accordance with subsection (d).

(2) CREDIT.—The term "credit" means a credit allocated to a certified nuclear reactor under subsection (e)(2).

(b) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a civil nuclear credit program—

(1) to evaluate nuclear reactors that are projected to cease operations due to economic factors; and

(2) to allocate credits to certified nuclear reactors that are selected under paragraph (1)(B) of subsection (e) to receive credits under paragraph (2) of that subsection.

(c) CERTIFICATION.—

(1) APPLICATION.—

(A) IN GENERAL.—In order to be certified under paragraph (2)(A)(i), the owner or operator of a nuclear reactor that is projected to cease operations due to economic factors shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary determines to be appropriate, including—

(i) information on the operating costs necessary to make the determination described in paragraph (2)(A)(ii)(I), including—

(I) the average projected annual operating loss in dollars per megawatt-hour, inclusive of the cost of operational and market risks, expected to be incurred by the nuclear reactor over the 4-year period for which credits would be allocated;

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(II) any private or publicly available data with respect to current or projected bulk power market prices;

(III) out-of-market revenue streams;

(IV) operations and maintenance costs;

(V) capital costs, including fuel; and

(VI) operational and market risks;

(ii) an estimate of the potential incremental air pollutants that would result if the nuclear reactor were to cease operations;

(iii) known information on the source of produced uranium and the location where the uranium is converted, enriched, and fabricated into fuel assemblies for the nuclear reactor for the 4-year period for which credits would be allocated; and

(iv) a detailed plan to sustain operations at the conclusion of the applicable 4-year period for which credits would be allocated—

(I) without receiving additional credits; or

(II) with the receipt of additional credits of a lower amount than the credits allocated during that 4-year credit period.

(B) TIMELINE.—The Secretary shall accept applications described in subparagraph (A)—

(i) until the date that is 120 days after the date of enactment of this Act; and

(ii) not less frequently than every year thereafter.

(C) PAYMENTS FROM STATE PROGRAMS.—

(i) IN GENERAL.—The owner or operator of a nuclear reactor that receives a payment from a State zero-emission credit, a State clean energy contract, or any other State program with respect to that nuclear reactor shall be eligible to submit an application under subparagraph (A) with respect to that nuclear reactor during any application period beginning after the 120-day period beginning on the date of enactment of this Act.

(ii) REQUIREMENT.—An application submitted by an owner or operator described in clause (i) with respect to a nuclear reactor described in that clause shall include all projected payments from State programs in determining the average projected annual operating loss described in subparagraph (A)(i)(I), unless the credits allocated to the nuclear reactor pursuant to that application will be used to reduce those payments.

(2) DETERMINATION TO CERTIFY.—

(A) DETERMINATION.—

(i) IN GENERAL.—Not later than 60 days after the applicable date under subparagraph (B) of paragraph (1), the Secretary shall determine whether to certify, in accordance with clauses (ii) and (iii), each nuclear reactor for which an application is submitted under subparagraph (A) of that paragraph.

(ii) MINIMUM REQUIREMENTS.—To the maximum extent practicable, the Secretary shall only certify a nuclear reactor under clause (i) if—

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(I) after considering the information submitted under paragraph (1)(A)(i), the Secretary determines that the nuclear reactor is projected to cease operations due to economic factors;

(II) after considering the estimate submitted under paragraph (1)(A)(ii), the Secretary determines that pollutants would increase if the nuclear reactor were to cease operations and be replaced with other types of power generation; and

(III) the Nuclear Regulatory Commission has reasonable assurance that the nuclear reactor—

(aa) will continue to be operated in accordance with the current licensing basis (as defined in section 54.3 of title 10, Code of Federal Regulations (or successor regulations) of the nuclear reactor; and

(bb) poses no significant safety hazards.

(iii) PRIORITY.—In determining whether to certify a nuclear reactor under clause (i), the Secretary shall give priority to a nuclear reactor that uses, to the maximum extent available, uranium that is produced, converted, enriched, and fabricated into fuel assemblies in the United States.

(B) NOTICE.—For each application received under paragraph (1)(A), the Secretary shall provide to the applicable owner or operator, as applicable—

(i) a notice of the certification of the applicable nuclear reactor; or

(ii) a notice that describes the reasons why the certification of the applicable nuclear reactor was denied.

(d) BIDDING PROCESS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall establish a deadline by which each certified nuclear reactor shall submit to the Secretary a sealed bid that—

(A) describes the price per megawatt-hour of the credits desired by the certified nuclear reactor, which shall not exceed the average projected annual operating loss described in subsection (c)(1)(A)(i)(I); and

(B) includes a commitment, subject to the receipt of credits, to provide a specific number of megawatt-hours of generation during the 4-year period for which credits would be allocated.

(2) REQUIREMENT.—The deadline established under paragraph (1) shall be not later than 30 days after the first date on which the Secretary has made the determination described in paragraph (2)(A)(i) of subsection (c) with respect to each application submitted under paragraph (1)(A) of that subsection.

(e) ALLOCATION.—

(1) AUCTION.—Notwithstanding section 169 of the Atomic Energy Act of 1954 (42 U.S.C. 2209), the Secretary shall—

(A) in consultation with the heads of applicable Federal agencies, establish a process for evaluating bids submitted under subsection (d)(1) through an auction process; and

(B) select certified nuclear reactors to be allocated credits.

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(2) CREDITS.—Subject to subsection (f)(2), on selection under paragraph (1), a certified nuclear reactor shall be allocated credits for a 4-year period beginning on the date of the selection.

(3) REQUIREMENT.—To the maximum extent practicable, the Secretary shall use the amounts made available for credits under this section to allocate credits to as many certified nuclear reactors as possible.

(f) RENEWAL.—

(1) IN GENERAL.—The owner or operator of a certified nuclear reactor may seek to recertify the nuclear reactor in accordance with this section.

(2) LIMITATION.—Notwithstanding any other provision of this section, the Secretary may not allocate any credits after September 30, 2031.

(g) ADDITIONAL REQUIREMENTS.—

(1) AUDIT.—During the 4-year period beginning on the date on which a certified nuclear reactor first receives a credit, the Secretary shall periodically audit the certified nuclear reactor.

(2) RECAPTURE.—The Secretary shall, by regulation, provide for the recapture of the allocation of any credit to a certified nuclear reactor that, during the period described in paragraph (1)—

(A) terminates operations; or

(B) does not operate at an annual loss in the absence of an allocation of credits to the certified nuclear reactor.

(3) CONFIDENTIALITY.—The Secretary shall establish procedures to ensure that any confidential, private, proprietary, or privileged information that is included in a sealed bid submitted under this section is not publicly disclosed or otherwise improperly used.

(h) REPORT.—Not later than January 1, 2024, the Comptroller General of the United States shall submit to Congress a report with respect to the credits allocated to certified nuclear reactors, which shall include—

(1) an evaluation of the effectiveness of the credits in avoiding air pollutants while ensuring grid reliability;

(2) a quantification of the ratepayer savings achieved under this section; and

(3) any recommendations to renew or expand the credits.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $6,000,000,000 for the period of fiscal years 2022 through 2026.

Subtitle D—Hydropower

SEC. 40331. HYDROELECTRIC PRODUCTION INCENTIVES.

Section 242 of the Energy Policy Act of 2005 (42 U.S.C. 15881) is amended—

(1) in subsection (b)(2), by striking "before the date of the enactment of this section" and inserting "before the date of enactment of the Infrastructure Investment and Jobs Act";

(2) in the undesignated matter following subsection (b)(3), by striking "the date of the enactment of this section" and

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inserting "the date of enactment of the Infrastructure Investment and Jobs Act";

(3) in subsection (e)(1), in the second sentence, by striking "$750,000" and inserting "$1,000,000"; and

(4) by striking subsection (g) and inserting the following:

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $125,000,000 for fiscal year 2022, to remain available until expended.".

SEC. 40332. HYDROELECTRIC EFFICIENCY IMPROVEMENT INCENTIVES.

(a) IN GENERAL.—Section 243 of the Energy Policy Act of 2005 (42 U.S.C. 15882) is amended—

(1) in the section heading, by inserting "incentives" after "improvement";

(2) in subsection (b)—

(A) in the first sentence, by striking "10 percent" and inserting "30 percent";

(B) in the second sentence—

(i) by striking "$750,000" and inserting "$5,000,000"; and

(ii) by inserting "in any 1 fiscal year" before the period at the end; and

(3) by striking subsection (c) and inserting the following:

"(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $75,000,000 for fiscal year 2022 to remain available until expended.".

(b) CONFORMING AMENDMENT.—The table of contents for the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 595) is amended by striking the item relating to section 243 and inserting the following:

"243. Hydroelectric efficiency improvement incentives.".

SEC. 40333. MAINTAINING AND ENHANCING HYDROELECTRICITY INCENTIVES.

(a) IN GENERAL.—Subtitle C of title II of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 674) is amended by adding at the end the following:

"SEC. 247. MAINTAINING AND ENHANCING HYDROELECTRICITY INCENTIVES.

"(a) DEFINITION OF QUALIFIED HYDROELECTRIC FACILITY.—In this section, the term 'qualified hydroelectric facility' means a hydroelectric project that—

"(1)(A) is licensed by the Federal Energy Regulatory Commission; or

"(B) is a hydroelectric project constructed, operated, or maintained pursuant to a permit or valid existing right-of-way granted prior to June 10, 1920, or a license granted pursuant to the Federal Power Act (16 U.S.C. 791a et seq.);

"(2) is placed into service before the date of enactment of this section; and

"(3)(A) is in compliance with all applicable Federal, Tribal, and State requirements; or

"(B) would be brought into compliance with the requirements described in subparagraph (A) as a result of the capital improvements carried out using an incentive payment under this section.

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"(b) INCENTIVE PAYMENTS.—The Secretary shall make incentive payments to the owners or operators of qualified hydroelectric facilities for capital improvements directly related to—

"(1) improving grid resiliency, including—

"(A) adapting more quickly to changing grid conditions;

"(B) providing ancillary services (including black start capabilities, voltage support, and spinning reserves);

"(C) integrating other variable sources of electricity generation; and

"(D) managing accumulated reservoir sediments;

"(2) improving dam safety to ensure acceptable performance under all loading conditions (including static, hydrologic, and seismic conditions), including—

"(A) the maintenance or upgrade of spillways or other appurtenant structures;

"(B) dam stability improvements, including erosion repair and enhanced seepage controls; and

"(C) upgrades or replacements of floodgates or natural infrastructure restoration or protection to improve flood risk reduction; or

"(3) environmental improvements, including—

"(A) adding or improving safe and effective fish passage, including new or upgraded turbine technology, fish ladders, fishways, and all other associated technology, equipment, or other fish passage technology to a qualified hydroelectric facility;

"(B) improving the quality of the water retained or released by a qualified hydroelectric facility;

"(C) promoting downstream sediment transport processes and habitat maintenance; and

"(D) improving recreational access to the project vicinity, including roads, trails, boat ingress and egress, flows to improve recreation, and infrastructure that improves river recreation opportunity.

"(c) LIMITATIONS.—

"(1) COSTS.—Incentive payments under this section shall not exceed 30 percent of the costs of the applicable capital improvement.

"(2) MAXIMUM AMOUNT.—Not more than 1 incentive payment may be made under this section with respect to capital improvements at a single qualified hydroelectric facility in any 1 fiscal year, the amount of which shall not exceed $5,000,000.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $553,600,000 for fiscal year 2022, to remain available until expended.".

(b) CONFORMING AMENDMENT.—The table of contents for the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 595) is amended by inserting after the item relating to section 246 the following:

"247. Maintaining and enhancing hydroelectricity incentives.".

SEC. 40334. PUMPED STORAGE HYDROPOWER WIND AND SOLAR INTEGRATION AND SYSTEM RELIABILITY INITIATIVE.

Section 3201 of the Energy Policy Act of 2020 (42 U.S.C. 17232) is amended—

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(1) by redesignating subsections (e) through (g) as subsections (f) through (h), respectively; and

(2) by inserting after subsection (d) the following:

"(e) PUMPED STORAGE HYDROPOWER WIND AND SOLAR INTEGRATION AND SYSTEM RELIABILITY INITIATIVE.—

"(1) DEFINITION OF ELIGIBLE ENTITY.—In this subsection, the term 'eligible entity' means—

"(A)(i) an electric utility, including—

"(I) a political subdivision of a State, such as a municipally owned electric utility; or

"(II) an instrumentality of a State composed of municipally owned electric utilities;

"(ii) an electric cooperative; or

"(iii) an investor-owned utility;

"(B) an Indian Tribe or Tribal organization;

"(C) a State energy office;

"(D) an institution of higher education; and

"(E) a consortium of the entities described in subparagraphs (A) through (D).

"(2) DEMONSTRATION PROJECT.—

"(A) IN GENERAL.—Not later than September 30, 2023, the Secretary shall, to the maximum extent practicable, enter into an agreement with an eligible entity to provide financial assistance to the eligible entity to carry out project design, transmission studies, power market assessments, and permitting for a pumped storage hydropower project to facilitate the long-duration storage of intermittent renewable electricity.

"(B) PROJECT REQUIREMENTS.—To be eligible for financial assistance under subparagraph (A), a project shall—

"(i) be designed to provide not less than 1,000 megawatts of storage capacity;

"(ii) be able to provide energy and capacity for use in more than 1 organized electricity market;

"(iii) be able to store electricity generated by intermittent renewable electricity projects located on Tribal land; and

"(iv) have received a preliminary permit from the Federal Energy Regulatory Commission.

"(C) MATCHING REQUIREMENT.—An eligible entity receiving financial assistance under subparagraph (A) shall provide matching funds equal to or greater than the amount of financial assistance provided under that subparagraph.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $2,000,000 for each of fiscal years 2022 through 2026.".

SEC. 40335. AUTHORITY FOR PUMPED STORAGE HYDROPOWER DEVELOPMENT USING MULTIPLE BUREAU OF RECLAMATION RESERVOIRS.

Section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)) is amended—

(1) in paragraph (1), in the fourth sentence, by striking ", including small conduit hydropower development" and inserting "and reserve to the Secretary the exclusive authority

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to develop small conduit hydropower using Bureau of Reclamation facilities and pumped storage hydropower exclusively using Bureau of Reclamation reservoirs"; and

(2) in paragraph (8), by striking "has been filed with the Federal Energy Regulatory Commission as of the date of the enactment of the Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act" and inserting "was filed with the Federal Energy Regulatory Commission before August 9, 2013, and is still pending".

SEC. 40336. LIMITATIONS ON ISSUANCE OF CERTAIN LEASES OF POWER PRIVILEGE.

(a) DEFINITIONS.—In this section:

(1) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission.

(2) DIRECTOR.—The term "Director" means the Director of the Office of Hearings and Appeals.

(3) OFFICE OF HEARINGS AND APPEALS.—The term "Office of Hearings and Appeals" means the Office of Hearings and Appeals of the Department of the Interior.

(4) PARTY.—The term "party", with respect to a study plan agreement, means each of the following parties to the study plan agreement:

(A) The proposed lessee.

(B) The Tribes.

(5) PROJECT.—The term "project" means a proposed pumped storage facility that—

(A) would use multiple Bureau of Reclamation reservoirs; and

(B) as of June 1, 2017, was subject to a preliminary permit issued by the Commission pursuant to section 4(f) of the Federal Power Act (16 U.S.C. 797(f)).

(6) PROPOSED LESSEE.—The term "proposed lessee" means the proposed lessee of a project.

(7) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(8) STUDY PLAN.—The term "study plan" means the plan described in subsection (d)(1).

(9) STUDY PLAN AGREEMENT.—The term "study plan agreement" means an agreement entered into under subsection (b)(1) and described in subsection (c).

(10) TRIBES.—The term "Tribes" means—

(A) the Confederated Tribes of the Colville Reservation; and

(B) the Spokane Tribe of Indians of the Spokane Reservation.

(b) REQUIREMENT FOR ISSUANCE OF LEASES OF POWER PRIVILEGE.—The Secretary shall not issue a lease of power privilege pursuant to section 9(c)(1) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)(1)) (as amended by section 40335) for a project unless—

(1) the proposed lessee and the Tribes have entered into a study plan agreement; or

(2) the Secretary or the Director, as applicable, makes a final determination for—

(A) a study plan agreement under subsection (c)(2); or

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(B) a study plan under subsection (d).

(c) STUDY PLAN AGREEMENT REQUIREMENTS.—

(1) IN GENERAL.—A study plan agreement shall—

(A) establish the deadlines for the proposed lessee to formally respond in writing to comments and study requests about the project previously submitted to the Commission;

(B) allow for the parties to submit additional comments and study requests if any aspect of the project, as proposed, differs from an aspect of the project, as described in a preapplication document provided to the Commission;

(C) except as expressly agreed to by the parties or as provided in paragraph (2) or subsection (d), require that the proposed lessee conduct each study described in—

(i) a study request about the project previously submitted to the Commission; or

(ii) any additional study request submitted in accordance with the study plan agreement;

(D) require that the proposed lessee study any potential adverse economic effects of the project on the Tribes, including effects on—

(i) annual payments to the Confederated Tribes of the Colville Reservation under section 5(b) of the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act (Public Law 103–436; 108 Stat. 4579); and

(ii) annual payments to the Spokane Tribe of Indians of the Spokane Reservation authorized after the date of enactment of this Act, the amount of which derives from the annual payments described in clause (i);

(E) establish a protocol for communication and consultation between the parties;

(F) provide mechanisms for resolving disputes between the parties regarding implementation and enforcement of the study plan agreement; and

(G) contain other provisions determined to be appropriate by the parties.

(2) DISPUTES.—

(A) IN GENERAL.—If the parties cannot agree to the terms of a study plan agreement or implementation of those terms, the parties shall submit to the Director, for final determination on the terms or implementation of the study plan agreement, notice of the dispute, consistent with paragraph (1)(F), to the extent the parties have agreed to a study plan agreement.

(B) INCLUSION.—A dispute covered by subparagraph (A) may include the view of a proposed lessee that an additional study request submitted in accordance with paragraph (1)(B) is not reasonably calculated to assist the Secretary in evaluating the potential impacts of the project.

(C) TIMING.—The Director shall issue a determination regarding a dispute under subparagraph (A) not later than 120 days after the date on which the Director receives notice of the dispute under that subparagraph.

(d) STUDY PLAN.—

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(1) IN GENERAL.—The proposed lessee shall submit to the Secretary for approval a study plan that details the proposed methodology for performing each of the studies—

(A) identified in the study plan agreement of the proposed lessee; or

(B) determined by the Director in a final determination regarding a dispute under subsection (c)(2).

(2) INITIAL DETERMINATION.—Not later than 60 days after the date on which the Secretary receives the study plan under paragraph (1), the Secretary shall make an initial determination that—

(A) approves the study plan;

(B) rejects the study plan on the grounds that the study plan—

(i) lacks sufficient detail on a proposed methodology for a study identified in the study plan agreement; or

(ii) is inconsistent with the study plan agreement; or

(C) imposes additional study plan requirements that the Secretary determines are necessary to adequately define the potential effects of the project on—

(i) the exercise of the paramount hunting, fishing, and boating rights of the Tribes reserved pursuant to the Act of June 29, 1940 (54 Stat. 703, chapter 460; 16 U.S.C. 835d et seq.);

(ii) the annual payments described in clauses (i) and (ii) of subsection (c)(1)(D);

(iii) the Columbia Basin project (as defined in section 1 of the Act of May 27, 1937 (50 Stat. 208, chapter 269; 57 Stat. 14, chapter 14; 16 U.S.C. 835));

(iv) historic properties and cultural or spiritually significant resources; and

(v) the environment.

(3) OBJECTIONS.—

(A) IN GENERAL.—Not later than 30 days after the date on which the Secretary makes an initial determination under paragraph (2), the Tribes or the proposed lessee may submit to the Director an objection to the initial determination.

(B) FINAL DETERMINATION.—Not later than 120 days after the date on which the Director receives an objection under subparagraph (A), the Director shall—

(i) hold a hearing on the record regarding the objection; and

(ii) make a final determination that establishes the study plan, including a description of studies the proposed lessee is required to perform.

(4) NO OBJECTIONS.—If no objections are submitted by the deadline described in paragraph (3)(A), the initial determination of the Secretary under paragraph (2) shall be final.

(e) CONDITIONS OF LEASE.—

(1) CONSISTENCY WITH RIGHTS OF TRIBES; PROTECTION, MITIGATION, AND ENHANCEMENT OF FISH AND WILDLIFE.—

(A) IN GENERAL.—Any lease of power privilege issued by the Secretary for a project under subsection (b) shall contain conditions—

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(i) to ensure that the project is consistent with, and will not interfere with, the exercise of the paramount hunting, fishing, and boating rights of the Tribes reserved pursuant to the Act of June 29, 1940 (54 Stat. 703, chapter 460; 16 U.S.C. 835d et seq.); and

(ii) to adequately and equitably protect, mitigate damages to, and enhance fish and wildlife, including related spawning grounds and habitat, affected by the development, operation, and management of the project.

(B) RECOMMENDATIONS OF THE TRIBES.—The conditions required under subparagraph (A) shall be based on joint recommendations of the Tribes.

(C) RESOLVING INCONSISTENCIES.—

(i) IN GENERAL.—If the Secretary determines that any recommendation of the Tribes under subparagraph (B) is not reasonably calculated to ensure the project is consistent with subparagraph (A) or is inconsistent with the requirements of the Reclamation Project Act of 1939 (43 U.S.C. 485 et seq.), the Secretary shall attempt to resolve any such inconsistency with the Tribes, giving due weight to the recommendations and expertise of the Tribes.

(ii) PUBLICATION OF FINDINGS.—If, after an attempt to resolve an inconsistency under clause (i), the Secretary does not adopt in whole or in part a recommendation of the Tribes under subparagraph (B), the Secretary shall issue each of the following findings, including a statement of the basis for each of the findings:

(I) A finding that adoption of the recommendation is inconsistent with the requirements of the Reclamation Project Act of 1939 (43 U.S.C. 485 et seq.).

(II) A finding that the conditions selected by the Secretary to be contained in the lease of power privilege under subparagraph (A) comply with the requirements of clauses (i) and (ii) of that subparagraph.

(2) ANNUAL CHARGES PAYABLE BY LICENSEE.—

(A) IN GENERAL.—Subject to subparagraph (B), any lease of power privilege issued by the Secretary for a project under subsection (b) shall contain conditions that require the lessee of the project to make direct payments to the Tribes through reasonable annual charges in an amount that recompenses the Tribes for any adverse economic effect of the project identified in a study performed pursuant to the study plan agreement for the project.

(B) AGREEMENT.—

(i) IN GENERAL.—The amount of the annual charges described in subparagraph (A) shall be established through agreement between the proposed lessee and the Tribes.

(ii) CONDITION.—The agreement under clause (i), including any modification of the agreement, shall be deemed to be a condition to the lease of power privilege

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issued by the Secretary for a project under subsection (b).

(C) DISPUTE RESOLUTION.—

(i) IN GENERAL.—If the proposed lessee and the Tribes cannot agree to the terms of an agreement under subparagraph (B)(i), the proposed lessee and the Tribes shall submit notice of the dispute to the Director.

(ii) RESOLUTION.—The Director shall resolve the dispute described in clause (i) not later than 180 days after the date on which the Director receives notice of the dispute under that clause.

(3) ADDITIONAL CONDITIONS.—The Secretary may include in any lease of power privilege issued by the Secretary for a project under subsection (b) other conditions determined appropriate by the Secretary, on the condition that the conditions shall be consistent with the Reclamation Project Act of 1939 (43 U.S.C. 485 et seq.).

(4) CONSULTATION.—In establishing conditions under this subsection, the Secretary shall consult with the Tribes.

(f) DEADLINES.—The Secretary or any officer of the Office of Hearing and Appeals before whom a proceeding is pending under this section may extend any deadline or enlarge any timeframe described in this section—

(1) at the discretion of the Secretary or the officer; or

(2) on a showing of good cause by any party.

(g) JUDICIAL REVIEW.—Any final action of the Secretary or the Director made pursuant to this section shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code.

(h) EFFECT ON OTHER PROJECTS.—Nothing in this section establishes any precedent or is binding on any Bureau of Reclamation lease of power privilege, other than for a project.

Subtitle E—Miscellaneous

SEC. 40341. SOLAR ENERGY TECHNOLOGIES ON CURRENT AND FORMER MINE LAND.

Section 3004 of the Energy Act of 2020 (42 U.S.C. 16238) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (6) through (15) as paragraphs (7) through (16), respectively; and

(B) by inserting after paragraph (5) the following:

"(6) MINE LAND.—The term 'mine land' means—

"(A) land subject to titles IV and V of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 et seq.; 30 U.S.C. 1251 et seq.); and

"(B) land that has been claimed or patented subject to sections 2319 through 2344 of the Revised Statutes (commonly known as the 'Mining Law of 1872') (30 U.S.C. 22 et seq.).''; and

(2) in subsection (b)(6)(B)—

(A) in the matter preceding clause (i), by inserting ", in consultation with the Secretary of the Interior and

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the Administrator of the Environmental Protection Agency for purposes of clause (iv)," after "the Secretary";

(B) in clause (iii), by striking "and" after the semicolon;

(C) by redesignating clause (iv) as clause (v); and

(D) by inserting after clause (iii) the following:

"(iv) a description of the technical and economic viability of siting solar energy technologies on current and former mine land, including necessary interconnection and transmission siting and the impact on local job creation; and".

SEC. 40342. CLEAN ENERGY DEMONSTRATION PROGRAM ON CURRENT AND FORMER MINE LAND.

(a) DEFINITIONS.—In this section:

(1) CLEAN ENERGY PROJECT.—The term "clean energy project" means a project that demonstrates 1 or more of the following technologies:

(A) Solar.

(B) Micro-grids.

(C) Geothermal.

(D) Direct air capture.

(E) Fossil-fueled electricity generation with carbon capture, utilization, and sequestration.

(F) Energy storage, including pumped storage hydropower and compressed air storage.

(G) Advanced nuclear technologies.

(2) ECONOMICALLY DISTRESSED AREA.—The term "economically distressed area" means an area described in section 301(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161(a)).

(3) MINE LAND.—The term "mine land" means—

(A) land subject to titles IV and V of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 et seq.; 30 U.S.C. 1251 et seq.); and

(B) land that has been claimed or patented subject to sections 2319 through 2344 of the Revised Statutes (commonly known as the "Mining Law of 1872") (30 U.S.C. 22 et seq.).

(4) PROGRAM.—The term "program" means the demonstration program established under subsection (b).

(b) ESTABLISHMENT.—The Secretary shall establish a program to demonstrate the technical and economic viability of carrying out clean energy projects on current and former mine land.

(c) SELECTION OF DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—In carrying out the program, the Secretary shall select not more than 5 clean energy projects, to be carried out in geographically diverse regions, at least 2 of which shall be solar projects.

(2) ELIGIBILITY.—To be eligible to be selected for participation in the program under paragraph (1), a clean energy project shall demonstrate, as determined by the Secretary, a technology on a current or former mine land site with a reasonable expectation of commercial viability.

(3) PRIORITY.—In selecting clean energy projects for participation in the program under paragraph (1), the Secretary shall prioritize clean energy projects that will—

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(A) be carried out in a location where the greatest number of jobs can be created from the successful demonstration of the clean energy project;

(B) provide the greatest net impact in avoiding or reducing greenhouse gas emissions;

(C) provide the greatest domestic job creation (both directly and indirectly) during the implementation of the clean energy project;

(D) provide the greatest job creation and economic development in the vicinity of the clean energy project, particularly—

(i) in economically distressed areas; and

(ii) with respect to dislocated workers who were previously employed in manufacturing, coal power plants, or coal mining;

(E) have the greatest potential for technological innovation and commercial deployment;

(F) have the lowest levelized cost of generated or stored energy;

(G) have the lowest rate of greenhouse gas emissions per unit of electricity generated or stored; and

(H) have the shortest project time from permitting to completion.

(4) PROJECT SELECTION.—The Secretary shall solicit proposals for clean energy projects and select clean energy project finalists in consultation with the Secretary of the Interior, the Administrator of the Environmental Protection Agency, and the Secretary of Labor.

(5) COMPATIBILITY WITH EXISTING OPERATIONS.—Prior to selecting a clean energy project for participation in the program under paragraph (1), the Secretary shall consult with, as applicable, mining claimholders or operators or the relevant Office of Surface Mining Reclamation and Enforcement Abandoned Mine Land program office to confirm—

(A) that the proposed project is compatible with any current mining, exploration, or reclamation activities; and

(B) the valid existing rights of any mining claimholders or operators.

(d) CONSULTATION.—The Secretary shall consult with the Director of the Office of Surface Mining Reclamation and Enforcement and the Administrator of the Environmental Protection Agency, acting through the Office of Brownfields and Land Revitalization, to determine whether it is necessary to promulgate regulations or issue guidance in order to prioritize and expedite the siting of clean energy projects on current and former mine land sites.

(e) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to project applicants selected for participation in the program under subsection (c) to assess the needed interconnection, transmission, and other grid components and permitting and siting necessary to interconnect, on current and former mine land where the project will be sited, any generation or storage with the electric grid.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $500,000,000 for the period of fiscal years 2022 through 2026.

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SEC. 40343. LEASES, EASEMENTS, AND RIGHTS-OF-WAY FOR ENERGY AND RELATED PURPOSES ON THE OUTER CONTINENTAL SHELF.

Section 8(p)(1)(C) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(p)(1)(C)) is amended by inserting "storage," before "or transmission".

TITLE IV—ENABLING ENERGY INFRASTRUCTURE INVESTMENT AND DATA COLLECTION

Subtitle A—Department of Energy Loan Program

SEC. 40401. DEPARTMENT OF ENERGY LOAN PROGRAMS.

(a) TITLE XVII INNOVATIVE ENERGY LOAN GUARANTEE PROGRAM.—

(1) REASONABLE PROSPECT OF REPAYMENT.—Section 1702(d)(1) of the Energy Policy Act of 2005 (42 U.S.C. 16512(d)(1)) is amended—

(A) by striking the paragraph designation and heading and all that follows through "No guarantee" and inserting the following:

"(1) REQUIREMENT.—

"(A) IN GENERAL.—No guarantee"; and

(B) by adding at the end the following:

"(B) REASONABLE PROSPECT OF REPAYMENT.—The Secretary shall base a determination of whether there is reasonable prospect of repayment under subparagraph (A) on a comprehensive evaluation of whether the borrower has a reasonable prospect of repaying the guaranteed obligation for the eligible project, including, as applicable, an evaluation of—

"(i) the strength of the contractual terms of the eligible project (if commercially reasonably available);

"(ii) the forecast of noncontractual cash flows supported by market projections from reputable sources, as determined by the Secretary;

"(iii) cash sweeps and other structure enhancements;

"(iv) the projected financial strength of the borrower—

"(I) at the time of loan close; and

"(II) throughout the loan term after the project is completed;

"(v) the financial strength of the investors and strategic partners of the borrower, if applicable; and

"(vi) other financial metrics and analyses that are relied on by the private lending community and nationally recognized credit rating agencies, as determined appropriate by the Secretary.".

(2) LOAN GUARANTEES FOR PROJECTS THAT INCREASE THE DOMESTICALLY PRODUCED SUPPLY OF CRITICAL MINERALS.—

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(A) IN GENERAL.—Section 1703(b) of the Energy Policy Act of 2005 (42 U.S.C. 16513(b)) is amended by adding at the end the following:

"(13) Projects that increase the domestically produced supply of critical minerals (as defined in section 7002(a) of the Energy Act of 2020 (30 U.S.C. 1606(a)), including through the production, processing, manufacturing, recycling, or fabrication of mineral alternatives.".

(B) PROHIBITION ON USE OF PREVIOUSLY APPROPRIATED FUNDS.—Amounts appropriated to the Department of Energy before the date of enactment of this Act shall not be made available for the cost of loan guarantees made under paragraph (13) of section 1703(b) of the Energy Policy Act of 2005 (42 U.S.C. 16513(b)).

(C) PROHIBITION ON USE OF PREVIOUSLY AVAILABLE COMMITMENT AUTHORITY.—Amounts made available to the Department of Energy for commitments to guarantee loans under section 1703 of the Energy Policy Act of 2005 (42 U.S.C. 16513) before the date of enactment of this Act shall not be made available for commitments to guarantee loans for projects described in paragraph (13) of section 1703(b) of the Energy Policy Act of 2005 (42 U.S.C. 16513(b)).

(3) CONFLICTS OF INTEREST.—Section 1702 of the Energy Policy Act of 2005 (42 U.S.C. 16512) is amended by adding at the end the following:

"(r) CONFLICTS OF INTEREST.—For each project selected for a guarantee under this title, the Secretary shall certify that political influence did not impact the selection of the project.".

(b) ADVANCED TECHNOLOGY VEHICLE MANUFACTURING.—

(1) ELIGIBILITY.—Section 136(a)(1) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17013(a)(1)) is amended—

(A) in subparagraph (C), by striking the period at the end and inserting a semicolon;

(B) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and indenting appropriately;

(C) in the matter preceding clause (i) (as so redesignated), by striking "means an ultra" and inserting the following: "means—

"(A) an ultra"; and

(D) by adding at the end the following:

"(B) a medium duty vehicle or a heavy duty vehicle that exceeds 125 percent of the greenhouse gas emissions and fuel efficiency standards established by the final rule of the Environmental Protection Agency entitled 'Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles—Phase 2' (81 Fed. Reg. 73478 (October 25, 2016));

"(C) a train or locomotive;

"(D) a maritime vessel;

"(E) an aircraft; and

"(F) hyperloop technology.".

(2) REASONABLE PROSPECT OF REPAYMENT.—Section 136(d) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17013(d)) is amended—

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(A) by striking paragraph (3) and inserting the following:

"(3) SELECTION OF ELIGIBLE PROJECTS.—

"(A) IN GENERAL.—The Secretary shall select eligible projects to receive loans under this subsection if the Secretary determines that—

"(i) the loan recipient—

"(I) has a reasonable prospect of repaying the principal and interest on the loan;

"(II) will provide sufficient information to the Secretary for the Secretary to ensure that the qualified investment is expended efficiently and effectively; and

"(III) has met such other criteria as may be established and published by the Secretary; and

"(ii) the amount of the loan (when combined with amounts available to the loan recipient from other sources) will be sufficient to carry out the project.

"(B) REASONABLE PROSPECT OF REPAYMENT.—The Secretary shall base a determination of whether there is a reasonable prospect of repayment of the principal and interest on a loan under subparagraph (A)(i)(I) on a comprehensive evaluation of whether the loan recipient has a reasonable prospect of repaying the principal and interest, including, as applicable, an evaluation of—

"(i) the strength of the contractual terms of the eligible project (if commercially reasonably available);

"(ii) the forecast of noncontractual cash flows supported by market projections from reputable sources, as determined by the Secretary;

"(iii) cash sweeps and other structure enhancements;

"(iv) the projected financial strength of the loan recipient—

"(I) at the time of loan close; and

"(II) throughout the loan term after the project is completed;

"(v) the financial strength of the investors and strategic partners of the loan recipient, if applicable; and

"(vi) other financial metrics and analyses that are relied on by the private lending community and nationally recognized credit rating agencies, as determined appropriate by the Secretary."; and

(B) in paragraph (4)—

(i) in subparagraph (C), by striking "and" after the semicolon;

(ii) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(E) shall be subject to the condition that the loan is not subordinate to other financing.".

(3) ADDITIONAL REFORMS.—Section 136 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17013) is amended—

(A) in subsection (b) by striking "ultra efficient vehicle manufacturers, and component suppliers" and inserting

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"ultra efficient vehicle manufacturers, advanced technology vehicle manufacturers, and component suppliers";

(B) in subsection (h)—

(i) in the subsection heading, by striking "AUTOMOBILE" and inserting "ADVANCED TECHNOLOGY VEHICLE"; and

(ii) in paragraph (1)(B), by striking "automobiles, or components of automobiles" and inserting "advanced technology vehicles, or components of advanced technology vehicles";

(C) by striking subsection (i);

(D) by redesignating subsection (j) as subsection (i); and

(E) by adding at the end the following:

"(j) COORDINATION.—In carrying out this section, the Secretary shall coordinate with relevant vehicle, bioenergy, and hydrogen and fuel cell demonstration project activities supported by the Department.

"(k) OUTREACH.—In carrying out this section, the Secretary shall—

"(1) provide assistance with the completion of applications for awards or loans under this section; and

"(2) conduct outreach, including through conferences and online programs, to disseminate information on awards and loans under this section to potential applicants.

"(l) PROHIBITION ON USE OF APPROPRIATED FUNDS.—Amounts appropriated to the Secretary before the date of enactment of this subsection shall not be available to the Secretary to provide awards under subsection (b) or loans under subsection (d) for the costs of activities that were not eligible for those awards or loans on the day before that date.

"(m) REPORT.—Not later than 2 years after the date of enactment of this subsection, and every 3 years thereafter, the Secretary shall submit to Congress a report on the status of projects supported by a loan under this section, including—

"(1) a list of projects receiving a loan under this section, including the loan amount and construction status of each project;

"(2) the status of the loan repayment for each project, including future repayment projections;

"(3) data regarding the number of direct and indirect jobs retained, restored, or created by financed projects;

"(4) the number of new projects projected to receive a loan under this section in the next 2 years, including the projected aggregate loan amount over the next 2 years;

"(5) evaluation of ongoing compliance with the assurances and commitments, and of the predictions, made by applicants pursuant to paragraphs (2) and (3) of subsection (d);

"(6) the total number of applications received by the Department each year; and

"(7) any other metrics the Secretary determines appropriate.".

(4) CONFLICTS OF INTEREST.—Section 136(d) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17013(d)) is amended by adding at the end the following:

"(5) CONFLICTS OF INTEREST.—For each eligible project selected to receive a loan under this subsection, the Secretary

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shall certify that political influence did not impact the selection of the eligible project.".

(c) STATE LOAN ELIGIBILITY.—

(1) DEFINITIONS.—Section 1701 of the Energy Policy Act of 2005 (42 U.S.C. 16511) is amended by adding at the end the following:

"(6) STATE.—The term 'State' has the meaning given the term in section 202 of the Energy Conservation and Production Act (42 U.S.C. 6802).

"(7) STATE ENERGY FINANCING INSTITUTION.—

"(A) IN GENERAL.—The term 'State energy financing institution' means a quasi-independent entity or an entity within a State agency or financing authority established by a State—

"(i) to provide financing support or credit enhancements, including loan guarantees and loan loss reserves, for eligible projects; and

"(ii) to create liquid markets for eligible projects, including warehousing and securitization, or take other steps to reduce financial barriers to the deployment of existing and new eligible projects.

"(B) INCLUSION.—The term 'State energy financing institution' includes an entity or organization established to achieve the purposes described in clauses (i) and (ii) of subparagraph (A) by an Indian Tribal entity or an Alaska Native Corporation.".

(2) TERMS AND CONDITIONS.—Section 1702 of the Energy Policy Act of 2005 (42 U.S.C. 16512) is amended—

(A) in subsection (a), by inserting ", including projects receiving financial support or credit enhancements from a State energy financing institution," after "for projects";

(B) in subsection (d)(1), by inserting ", including a guarantee for a project receiving financial support or credit enhancements from a State energy financing institution," after "No guarantee"; and

(C) by adding at the end the following:

"(r) STATE ENERGY FINANCING INSTITUTIONS.—

"(1) ELIGIBILITY.—To be eligible for a guarantee under this title, a project receiving financial support or credit enhancements from a State energy financing institution—

"(A) shall meet the requirements of section 1703(a)(1); and

"(B) shall not be required to meet the requirements of section 1703(a)(2).

"(2) PARTNERSHIPS AUTHORIZED.—In carrying out a project receiving a loan guarantee under this title, State energy financing institutions may enter into partnerships with private entities, Tribal entities, and Alaska Native corporations.

"(3) PROHIBITION ON USE OF APPROPRIATED FUNDS.—Amounts appropriated to the Department of Energy before the date of enactment of this subsection shall not be available to be used for the cost of loan guarantees for projects receiving financing support or credit enhancements under this subsection.".

(d) LOAN GUARANTEES FOR CERTAIN ALASKA NATURAL GAS TRANSPORTATION PROJECTS AND SYSTEMS.—Section 116 of the Alaska Natural Gas Pipeline Act (15 U.S.C. 720n) is amended—

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(1) in subsection (a)—

(A) in paragraph (1), by striking "to West Coast States"; and

(B) in paragraph (3), in the second sentence, by striking "to the continental United States";

(2) in subsection (b)(1), in the first sentence, by striking "to West Coast States"; and

(3) in subsection (g)(4)—

(A) by inserting by striking "plants liquification plants and" and inserting "plants, liquification plants, and";

(B) by striking "to the West Coast"; and

(C) by striking "to the continental United States".

Subtitle B—Energy Information Administration

SEC. 40411. DEFINITIONS.

In this subtitle:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Energy Information Administration.

(2) ANNUAL CRITICAL MINERALS OUTLOOK.—The term "Annual Critical Minerals Outlook" means the Annual Critical Minerals Outlook prepared under section 7002(j)(1)(B) of the Energy Act of 2020 (30 U.S.C. 1606(j)(1)(B)).

(3) CRITICAL MINERAL.—The term "critical mineral" has the meaning given the term in section 7002(a) of the Energy Act of 2020 (30 U.S.C. 1606(a)).

(4) HOUSEHOLD ENERGY BURDEN.—The term "household energy burden" means the quotient obtained by dividing—

(A) the residential energy expenditures (as defined in section 440.3 of title 10, Code of Federal Regulations (as in effect on the date of enactment of this Act)) of the applicable household; by

(B) the annual income of that household.

(5) HOUSEHOLD WITH A HIGH ENERGY BURDEN.—The term "household with a high energy burden" has the meaning given the term in section 440.3 of title 10, Code of Federal Regulations (as in effect on the date of enactment of this Act).

(6) LARGE MANUFACTURING FACILITY.—The term "large manufacturing facility" means a manufacturing facility that—

(A) annually consumes more than 35,000 megawatt-hours of electricity; or

(B) has a peak power demand of more than 10 megawatts.

(7) LOAD-SERVING ENTITY.—The term "load-serving entity" has the meaning given the term in section 217(a) of the Federal Power Act (16 U.S.C. 824q(a)).

(8) MISCELLANEOUS ELECTRIC LOAD.—The term "miscellaneous electric load" means electricity that—

(A) is used by an appliance or device—

(i) within a building; or

(ii) to serve a building; and

(B) is not used for heating, ventilation, air conditioning, lighting, water heating, or refrigeration.

(9) REGIONAL TRANSMISSION ORGANIZATION.—The term "Regional Transmission Organization" has the meaning given

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the term in section 3 of the Federal Power Act (16 U.S.C. 796).

(10) RURAL AREA.—The term "rural area" has the meaning given the term in section 609(a) of the Public Utility Regulatory Policies Act of 1978 (7 U.S.C. 918c(a)).

SEC. 40412. DATA COLLECTION IN THE ELECTRICITY SECTOR.

(a) DASHBOARD.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall establish an online database to track the operation of the bulk power system in the contiguous 48 States (referred to in this section as the "Dashboard").

(B) IMPROVEMENT OF EXISTING DASHBOARD.—The Dashboard may be established through the improvement, in accordance with this subsection, of an existing dashboard of the Energy Information Administration, such as—

(i) the U.S. Electric System Operating Data dashboard; or

(ii) the Hourly Electric Grid Monitor.

(2) EXPANSION.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall expand the Dashboard to include, to the maximum extent practicable, hourly operating data collected from the electricity balancing authorities that operate the bulk power system in all of the several States, each territory of the United States, and the District of Columbia.

(B) TYPES OF DATA.—The hourly operating data collected under subparagraph (A) may include data relating to—

(i) total electricity demand;

(ii) electricity demand by subregion;

(iii) short-term electricity demand forecasts;

(iv) total electricity generation;

(v) net electricity generation by fuel type, including renewables;

(vi) electricity stored and discharged;

(vii) total net electricity interchange;

(viii) electricity interchange with directly interconnected balancing authorities; and

(ix) where available, the estimated marginal greenhouse gas emissions per megawatt hour of electricity generated—

(I) within the metered boundaries of each balancing authority; and

(II) for each pricing node.

(b) MIX OF ENERGY SOURCES.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall establish, in accordance with section 40419 and this subsection and to the extent the Administrator determines to be appropriate, a system to harmonize the operating data on electricity generation collected under subsection (a) with—

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(A) measurements of greenhouse gas and other pollutant emissions collected by the Environmental Protection Agency;

(B) other data collected by the Environmental Protection Agency or other relevant Federal agencies, as the Administrator determines to be appropriate; and

(C) data collected by State or regional energy credit registries.

(2) OUTCOMES.—The system established under paragraph (1) shall result in an integrated dataset that includes, for any given time—

(A) the net generation of electricity by megawatt hour within the metered boundaries of each balancing authority; and

(B) where available, the average and marginal greenhouse gas emissions by megawatt hour of electricity generated within the metered boundaries of each balancing authority.

(3) REAL-TIME DATA DISSEMINATION.—To the maximum extent practicable, the system established under paragraph (1) shall disseminate data—

(A) on a real-time basis; and

(B) through an application programming interface that is publicly accessible.

(4) COMPLEMENTARY EFFORTS.—The system established under paragraph (1) shall complement any existing data dissemination efforts of the Administrator that make use of electricity generation data, such as electricity demand by subregion and electricity interchange with directly interconnected balancing authorities.

(c) OBSERVED CHARACTERISTICS OF BULK POWER SYSTEM RESOURCE INTEGRATION.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall establish a system to provide to the public timely data on the integration of energy resources into the bulk power system and the electric distribution grids in the United States, and the observed effects of that integration.

(2) REQUIREMENTS.—In carrying out paragraph (1), the Administrator shall seek to improve the temporal and spatial resolution of data relating to how grid operations are changing, such as through—

(A) thermal generator cycling to accommodate intermittent generation;

(B) generation unit self-scheduling practices;

(C) renewable source curtailment;

(D) utility-scale storage;

(E) load response;

(F) aggregations of distributed energy resources at the distribution system level;

(G) power interchange between directly connected balancing authorities;

(H) expanding Regional Transmission Organization balancing authorities;

(I) improvements in real-time—

(i) accuracy of locational marginal prices; and

(ii) signals to flexible demand; and

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(J) disruptions to grid operations, including disruptions caused by cyber sources, physical sources, extreme weather events, or other sources.

(d) DISTRIBUTION SYSTEM OPERATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall establish a system to provide to the public timely data on the operations of load-serving entities in the electricity grids of the United States.

(2) REQUIREMENTS.—

(A) IN GENERAL.—In carrying out paragraph (1), the Administrator shall—

(i) not less frequently than annually, provide data on—

(I) the delivered generation resource mix for each load-serving entity; and

(II) the distributed energy resources operating within each service area of a load-serving entity;

(ii) harmonize the data on delivered generation resource mix described in clause (i)(I) with measurements of greenhouse gas emissions collected by the Environmental Protection Agency;

(iii) to the maximum extent practicable, disseminate the data described in clause (i)(I) and the harmonized data described in clause (ii) on a real-time basis; and

(iv) provide historical data, beginning with the earliest calendar year practicable, but not later than calendar year 2020, on the delivered generation resource mix described in clause (i)(I).

(B) DATA ON THE DELIVERED GENERATION RESOURCE MIX.—In collecting the data described in subparagraph (A)(i)(I), the Administrator shall—

(i) use existing voluntary industry methodologies, including reporting protocols, databases, and emissions and energy use tracking software that provide consistent, timely, and accessible carbon emissions intensity rates for delivered electricity;

(ii) consider that generation and transmission entities may provide data on behalf of load-serving entities;

(iii) to the extent that the Administrator determines necessary, and in a manner designed to protect confidential information, require each load-serving entity to submit additional information as needed to determine the delivered generation resource mix of the load-serving entity, including financial or contractual agreements for power and generation resource type attributes with respect to power owned by or retired by the load-serving entity; and

(iv) for any portion of the generation resource mix of a load-serving entity that is otherwise unaccounted for, develop a methodology to assign to the load-serving entity a share of the otherwise unaccounted for resource mix of the relevant balancing authority.

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SEC. 40413. EXPANSION OF ENERGY CONSUMPTION SURVEYS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Administrator shall implement measures to expand the Manufacturing Energy Consumption Survey, the Commercial Building Energy Consumption Survey, and the Residential Energy Consumption Survey to include data on energy end use in order to facilitate the identification of—

(1) opportunities to improve energy efficiency and energy productivity;

(2) changing patterns of energy use; and

(3) opportunities to better understand and manage miscellaneous electric loads.

(b) REQUIREMENTS.—

(1) IN GENERAL.—In carrying out subsection (a), the Administrator shall—

(A) increase the scope and frequency of data collection on energy end uses and services;

(B) use new data collection methods and tools in order to obtain more comprehensive data and reduce the burden on survey respondents, including by—

(i) accessing other existing data sources; and

(ii) if feasible, developing online and real-time reporting systems;

(C) identify and report community-level economic and environmental impacts, including with respect to—

(i) the reliability and security of the energy supply; and

(ii) local areas with households with a high energy burden; and

(D) improve the presentation of data, including by—

(i) enabling the presentation of data in an interactive cartographic format on a national, regional, State, and local level with the functionality of viewing various economic, energy, and demographic measures on an individual basis or in combination; and

(ii) incorporating the results of the data collection, methods, and tools described in subparagraphs (A) and (B) into existing and new digital distribution methods.

(2) MANUFACTURING ENERGY CONSUMPTION SURVEY.—With respect to the Manufacturing Energy Consumption Survey, the Administrator shall—

(A) implement measures to provide more detailed representations of data by region;

(B) for large manufacturing facilities, break out process heat use by required process temperatures in order to facilitate the identification of opportunities for cost reductions and energy efficiency or energy productivity improvements;

(C) collect information on—

(i) energy source-switching capabilities, especially with respect to thermal processes and the efficiency of thermal processes;

(ii) the use of electricity, biofuels, hydrogen, or other alternative fuels to produce process heat; and

(iii) the use of demand response; and

(D) identify current and potential future industrial clusters in which multiple firms and facilities in a defined

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geographic area share the costs and benefits of infrastructure for clean manufacturing, such as—

(i) hydrogen generation, production, transport, use, and storage infrastructure; and

(ii) carbon dioxide capture, transport, use, and storage infrastructure.

(3) RESIDENTIAL ENERGY CONSUMPTION SURVEY.—With respect to the Residential Energy Consumption Survey, the Administrator shall—

(A) implement measures to provide more detailed representations of data by—

(i) geographic area, including by State (for each State);

(ii) building type, including multi-family buildings;

(iii) household income;

(iv) location in a rural area; and

(v) other demographic characteristics, as determined by the Administrator; and

(B) report measures of—

(i) household electrical service capacity;

(ii) access to utility demand-side management programs and bill credits;

(iii) characteristics of the energy mix used to generate electricity in different regions; and

(iv) the household energy burden for households—

(I) in different geographic areas;

(II) by electricity, heating, and other end-uses; and

(III) with different demographic characteristics that correlate with increased household energy burden, including—

(aa) having a low household income;

(bb) being a minority household;

(cc) residing in manufactured or multi-family housing;

(dd) being in a fixed or retirement income household;

(ee) residing in rental housing; and

(ff) other factors, as determined by the Administrator.

SEC. 40414. DATA COLLECTION ON ELECTRIC VEHICLE INTEGRATION WITH THE ELECTRICITY GRIDS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall develop and implement measures to expand data collection with respect to electric vehicle integration with the electricity grids.

(b) SOURCES OF DATA.—The sources of the data collected pursuant to subsection (a) may include—

(1) host-owned or charging-network-owned electric vehicle charging stations;

(2) aggregators of charging-network electricity demand;

(3) electric utilities offering managed-charging programs;

(4) individual, corporate, or public owners of electric vehicles; and

(5) balancing authority analyses of—

(A) transformer loading congestion; and

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(B) distribution-system congestion.

(c) CONSULTATION AND COORDINATION.—In carrying out subsection (a), the Administrator may consult and enter into agreements with other institutions having relevant data and data collection capabilities, such as—

(1) the Secretary of Transportation;

(2) the Secretary;

(3) the Administrator of the Environmental Protection Agency;

(4) States or State agencies; and

(5) private entities.

SEC. 40415. PLAN FOR THE MODELING AND FORECASTING OF DEMAND FOR MINERALS USED IN THE ENERGY SECTOR.

(a) PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator, in coordination with the Director of the United States Geological Survey, shall develop a plan for the modeling and forecasting of demand for energy technologies, including for energy production, transmission, or storage purposes, that use minerals that are or could be designated as critical minerals.

(2) INCLUSIONS.—The plan developed under paragraph (1) shall identify—

(A) the type and quantity of minerals consumed, delineated by energy technology;

(B) existing markets for manufactured energy-producing, energy-transmission, and energy-storing equipment; and

(C) emerging or potential markets for new energy-producing, energy-transmission, and energy-storing technologies entering commercialization.

(b) METRICS.—The plan developed under subsection (a)(1) shall produce forecasts of energy technology demand—

(1) over the 1-year, 5-year, and 10-year periods beginning on the date on which development of the plan is completed;

(2) by economic sector; and

(3) according to any other parameters that the Administrator, in collaboration with the Secretary of the Interior, acting through the Director of the United States Geological Survey, determines are needed for the Annual Critical Minerals Outlook.

(c) COLLABORATION.—The Administrator shall develop the plan under subsection (a)(1) in consultation with—

(1) the Secretary with respect to the possible trajectories of emerging energy-producing and energy-storing technologies; and

(2) the Secretary of the Interior, acting through the Director of the United States Geological Survey—

(A) to ensure coordination;

(B) to avoid duplicative effort; and

(C) to align the analysis of demand with data and analysis of where the minerals are produced, refined, and subsequently processed into materials and parts that are used to build energy technologies.

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SEC. 40416. EXPANSION OF INTERNATIONAL ENERGY DATA.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall implement measures to expand and improve the international energy data resources of the Energy Information Administration in order to understand—

(1) the production and use of energy in various countries;

(2) changing patterns of energy use internationally;

(3) the relative costs and environmental impacts of energy production and use internationally; and

(4) plans for or construction of major energy facilities or infrastructure.

(b) REQUIREMENTS.—In carrying out subsection (a), the Administrator shall—

(1) work with, and leverage the data resources of, the International Energy Agency;

(2) include detail on energy consumption by fuel, economic sector, and end use within countries for which data are available;

(3) collect relevant measures of energy use, including—

(A) cost; and

(B) emissions intensity; and

(4) provide tools that allow for straightforward country-to-country comparisons of energy production and consumption across economic sectors and end uses.

SEC. 40417. PLAN FOR THE NATIONAL ENERGY MODELING SYSTEM.

Not later than 180 days after the date of enactment of this Act, the Administrator shall develop a plan to identify any need or opportunity to update or further the capabilities of the National Energy Modeling System, including with respect to—

(1) treating energy demand endogenously;

(2) increased natural gas usage and increased market penetration of renewable energy;

(3) flexible operating modes of nuclear power plants, such as load following and frequency control;

(4) tools to model multiple-output energy systems that provide hydrogen, high-value heat, electricity, and chemical synthesis services, including interactions of those energy systems with the electricity grids, pipeline networks, and the broader economy;

(5) demand response and improved representation of energy storage, including long-duration storage, in capacity expansion models;

(6) electrification, particularly with respect to the transportation, industrial, and buildings sectors;

(7) increasing model resolution to represent all hours of the year and all electricity generators;

(8) wholesale electricity market design and the appropriate valuation of all services that support the reliability of electricity grids, such as—

(A) battery storage; and

(B) synthetic inertia from grid-tied inverters;

(9) economic modeling of the role of energy efficiency, demand response, electricity storage, and a variety of distributed generation technologies;

(10) the production, transport, use, and storage of carbon dioxide, hydrogen, and hydrogen carriers;

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(11) greater flexibility in—

(A) the modeling of the environmental impacts of electricity systems, such as—

(i) emissions of greenhouse gases and other pollutants; and

(ii) the use of land and water resources; and

(B) the ability to support climate modeling, such as the climate modeling performed by the Office of Biological and Environmental Research in the Office of Science of the Department;

(12) technologies that are in an early stage of commercial deployment and have been identified by the Secretary as candidates for large-scale demonstration projects, such as—

(A) carbon capture, transport, use, and storage from any source or economic sector;

(B) direct air capture;

(C) hydrogen production, including via electrolysis;

(D) synthetic and biogenic hydrocarbon liquid and gaseous fuels;

(E) supercritical carbon dioxide combustion turbines;

(F) industrial fuel cell and hydrogen combustion equipment; and

(G) industrial electric boilers;

(13) increased and improved data sources and tools, including—

(A) the establishment of technology and cost baselines, including technology learning rates;

(B) economic and employment impacts of energy system policies and energy prices on households, as a function of household income and region; and

(C) the use of behavioral economics to inform demand modeling in all sectors; and

(14) striving to migrate toward a single, consistent, and open-source modeling platform, and increasing open access to model systems, data, and outcomes, for—

(A) disseminating reference scenarios that can be transparently and broadly replicated; and

(B) promoting the development of the researcher and analyst workforce needed to continue the development and validation of improved energy system models in the future.

SEC. 40418. REPORT ON COSTS OF CARBON ABATEMENT IN THE ELECTRICITY SECTOR.

Not later than 270 days after the date of enactment of this Act, the Administrator shall submit to Congress a report on—

(1) the potential use of levelized cost of carbon abatement or a similar metric in analyzing generators of electricity, including an identification of limitations and appropriate uses of the metric;

(2) the feasibility and impact of incorporating levelized cost of carbon abatement in long-term forecasts—

(A) to compare technical approaches and understand real-time changes in fossil-fuel and nuclear dispatch;

(B) to compare the system-level costs of technology options to reduce emissions; and

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(C) to compare the costs of policy options, including current policies, regarding valid and verifiable reductions and removals of carbon; and

(3)(A) a potential process to measure carbon dioxide emissions intensity per unit of output production for a range of—

(i) energy sources;

(ii) sectors; and

(iii) geographic regions; and

(B) a corresponding process to provide an empirical framework for reporting the status and costs of carbon dioxide reduction relative to specified goals.

SEC. 40419. HARMONIZATION OF EFFORTS AND DATA.

Not later than 1 year after the date of enactment of this Act, the Administrator shall establish a system to harmonize, to the maximum extent practicable and consistent with data integrity—

(1) the data collection efforts of the Administrator, including any data collection required under this subtitle, with the data collection efforts of—

(A) the Environmental Protection Agency, as the Administrator determines to be appropriate;

(B) other relevant Federal agencies, as the Administrator determines to be appropriate; and

(C) State or regional energy credit registries, as the Administrator determines to be appropriate;

(2) the data collected under this subtitle, including the operating data on electricity generation collected under section 40412(a), with data collected by the entities described in subparagraphs (A) through (C) of paragraph (1), including any measurements of greenhouse gas and other pollutant emissions collected by the Environmental Protection Agency, as the Administrator determines to be appropriate; and

(3) the efforts of the Administrator to identify and report relevant impacts, opportunities, and patterns with respect to energy use, including the identification of community-level economic and environmental impacts required under section 40413(b)(1)(C), with the efforts of the Environmental Protection Agency and other relevant Federal agencies, as determined by the Administrator, to identify similar impacts, opportunities, and patterns.

Subtitle C—Miscellaneous

SEC. 40431. CONSIDERATION OF MEASURES TO PROMOTE GREATER ELECTRIFICATION OF THE TRANSPORTATION SECTOR.

(a) IN GENERAL.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) (as amended by section 40104(a)(1)) is amended by adding at the end the following:

"(21) ELECTRIC VEHICLE CHARGING PROGRAMS.—Each State shall consider measures to promote greater electrification of the transportation sector, including the establishment of rates that—

"(A) promote affordable and equitable electric vehicle charging options for residential, commercial, and public electric vehicle charging infrastructure;

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"(B) improve the customer experience associated with electric vehicle charging, including by reducing charging times for light-, medium-, and heavy-duty vehicles;

"(C) accelerate third-party investment in electric vehicle charging for light-, medium-, and heavy-duty vehicles; and

"(D) appropriately recover the marginal costs of delivering electricity to electric vehicles and electric vehicle charging infrastructure.".

(b) COMPLIANCE.—

(1) TIME LIMITATION.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) (as amended by section 40104(a)(2)(A)) is amended by adding at the end the following:

"(8)(A) Not later than 1 year after the date of enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which the State has ratemaking authority) and each nonregulated utility shall commence consideration under section 111, or set a hearing date for consideration, with respect to the standard established by paragraph (21) of section 111(d).

"(B) Not later than 2 years after the date of enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which the State has ratemaking authority), and each nonregulated electric utility shall complete the consideration and make the determination under section 111 with respect to the standard established by paragraph (21) of section 111(d).".

(2) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) (as amended by section 40104(a)(2)(B)(i)) is amended by adding at the end the following: "In the case of the standard established by paragraph (21) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of that paragraph (21).".

(3) PRIOR STATE ACTIONS.—

(A) IN GENERAL.—Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) (as amended by section 40104(a)(2)(C)(i)) is amended by adding at the end the following:

"(h) OTHER PRIOR STATE ACTIONS.—Subsections (b) and (c) shall not apply to the standard established by paragraph (21) of section 111(d) in the case of any electric utility in a State if, before the date of enactment of this subsection—

"(1) the State has implemented for the electric utility the standard (or a comparable standard);

"(2) the State regulatory authority for the State or the relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard (or a comparable standard) for the electric utility; or

"(3) the State legislature has voted on the implementation of the standard (or a comparable standard) for the electric utility during the 3-year period ending on that date of enactment.".

(B) CROSS-REFERENCE.—Section 124 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2634)

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(as amended by section 40104(a)(2)(C)(ii)(II)) is amended by adding at the end the following: "In the case of the standard established by paragraph (21) of section 111(d), the reference contained in this section to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of that paragraph (21).".

SEC. 40432. OFFICE OF PUBLIC PARTICIPATION.

Section 319 of the Federal Power Act (16 U.S.C. 825q–1) is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (A), by striking the third sentence; and

(B) in subparagraph (B)—

(i) by striking the third sentence and inserting the following: "The Director shall be compensated at a rate of pay not greater than the maximum rate of pay prescribed for a senior executive in the Senior Executive Service under section 5382 of title 5, United States Code."; and

(ii) by striking the first sentence; and

(2) in subsection (b), by striking paragraph (4).

SEC. 40433. DIGITAL CLIMATE SOLUTIONS REPORT.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with appropriate Federal agencies and relevant stakeholders, shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that assesses using digital tools and platforms as climate solutions, including—

(1) artificial intelligence and machine learning;

(2) blockchain technologies and distributed ledgers;

(3) crowdsourcing platforms;

(4) the Internet of Things;

(5) distributed computing for the grid; and

(6) software and systems.

(b) CONTENTS.—The report required under subsection (a) shall include—

(1) as practicable, a full inventory and assessment of digital climate solutions;

(2) an analysis of how the private sector can utilize the digital tools and platforms included in the inventory under paragraph (1) to accelerate digital climate solutions; and

(3) a summary of opportunities to enhance the standardization of voluntary and regulatory climate disclosure protocols, including enabling the data to be disseminated through an application programming interface that is accessible to the public.

SEC. 40434. STUDY AND REPORT BY THE SECRETARY OF ENERGY ON JOB LOSS AND IMPACTS ON CONSUMER ENERGY COSTS DUE TO THE REVOCATION OF THE PERMIT FOR THE KEYSTONE XL PIPELINE.

(a) DEFINITION OF EXECUTIVE ORDER.—In this section, the term "Executive Order" means Executive Order 13990 (86 Fed. Reg. 7037; relating to protecting public health and the environment and restoring science to tackle the climate crisis).

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(b) STUDY AND REPORT.—The Secretary shall—

(1) conduct a study to estimate—

(A) the total number of jobs that were lost as a direct or indirect result of section 6 of the Executive Order over the 10-year period beginning on the date on which the Executive Order was issued; and

(B) the impact on consumer energy costs that are projected to result as a direct or indirect result of section 6 of the Executive Order over the 10-year period beginning on the date on which the Executive Order was issued; and

(2) not later than 90 days after the date of enactment of this Act, submit to Congress a report describing the findings of the study conducted under paragraph (1).

SEC. 40435. STUDY ON IMPACT OF ELECTRIC VEHICLES.

Not later than 120 days after the date of enactment of this Act, the Secretary shall conduct, and submit to Congress a report describing the results of, a study on the cradle to grave environmental impact of electric vehicles.

SEC. 40436. STUDY ON IMPACT OF FORCED LABOR IN CHINA ON THE ELECTRIC VEHICLE SUPPLY CHAIN.

Not later than 120 days after the date of enactment of this Act, the Secretary, in coordination with the Secretary of State and the Secretary of Commerce, shall study the impact of forced labor in China on the electric vehicle supply chain.

TITLE V—ENERGY EFFICIENCY AND BUILDING INFRASTRUCTURE

Subtitle A—Residential and Commercial Energy Efficiency

SEC. 40501. DEFINITIONS.

In this subtitle:

(1) PRIORITY STATE.—The term "priority State" means a State that—

(A) is eligible for funding under the State Energy Program; and

(B)(i) is among the 15 States with the highest annual per-capita combined residential and commercial sector energy consumption, as most recently reported by the Energy Information Administration; or

(ii) is among the 15 States with the highest annual per-capita energy-related carbon dioxide emissions by State, as most recently reported by the Energy Information Administration.

(2) PROGRAM.—The term "program" means the program established under section 40502(a).

(3) STATE.—The term "State" means a State (as defined in section 3 of the Energy Policy and Conservation Act (42 U.S.C. 6202)), acting through a State energy office.

(4) STATE ENERGY PROGRAM.—The term "State Energy Program" means the State Energy Program established under

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part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.).

SEC. 40502. ENERGY EFFICIENCY REVOLVING LOAN FUND CAPITALIZATION GRANT PROGRAM.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, under the State Energy Program, the Secretary shall establish a program under which the Secretary shall provide capitalization grants to States to establish a revolving loan fund under which the State shall provide loans and grants, as applicable, in accordance with this section.

(b) DISTRIBUTION OF FUNDS.—

(1) ALL STATES.—

(A) IN GENERAL.—Of the amounts made available under subsection (j), the Secretary shall use 40 percent to provide capitalization grants to States that are eligible for funding under the State Energy Program, in accordance with the allocation formula established under section 420.11 of title 10, Code of Federal Regulations (or successor regulations).

(B) REMAINING FUNDING.—After applying the allocation formula described in subparagraph (A), the Secretary shall redistribute any unclaimed funds to the remaining States seeking capitalization grants under that subparagraph.

(2) PRIORITY STATES.—

(A) IN GENERAL.—Of the amounts made available under subsection (j), the Secretary shall use 60 percent to provide supplemental capitalization grants to priority States in accordance with an allocation formula determined by the Secretary.

(B) REMAINING FUNDING.—After applying the allocation formula described in subparagraph (A), the Secretary shall redistribute any unclaimed funds to the remaining priority States seeking supplemental capitalization grants under that subparagraph.

(C) GRANT AMOUNT.—

(i) MAXIMUM AMOUNT.—The amount of a supplemental capitalization grant provided to a State under this paragraph shall not exceed $15,000,000.

(ii) SUPPLEMENT NOT SUPPLANT.—A supplemental capitalization grant received by a State under this paragraph shall supplement, not supplant, a capitalization grant received by that State under paragraph (1).

(c) APPLICATIONS FOR CAPITALIZATION GRANTS.—A State seeking a capitalization grant under the program shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a detailed explanation of how the grant will be used, including a plan to establish a new revolving loan fund or use an existing revolving loan fund;

(2) the need of eligible recipients for loans and grants in the State for assistance with conducting energy audits;

(3) a description of the expected benefits that building infrastructure and energy system upgrades and retrofits will have on communities in the State; and

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(4) in the case of a priority State seeking a supplemental capitalization grant under subsection (b)(2), a justification for needing the supplemental funding.

(d) TIMING.—

(1) IN GENERAL.—The Secretary shall establish a timeline with dates by, or periods by the end of, which a State shall—

(A) on receipt of a capitalization grant under the program, deposit the grant funds into a revolving loan fund; and

(B) begin using the capitalization grant as described in subsection (e)(1).

(2) USE OF GRANT.—Under the timeline established under paragraph (1), a State shall be required to begin using a capitalization grant not more than 180 days after the date on which the grant is received.

(e) USE OF GRANT FUNDS.—

(1) IN GENERAL.—A State that receives a capitalization grant under the program—

(A) shall provide loans in accordance with paragraph (2); and

(B) may provide grants in accordance with paragraph (3).

(2) LOANS.—

(A) COMMERCIAL ENERGY AUDIT.—

(i) IN GENERAL.—A State that receives a capitalization grant under the program may provide a loan to an eligible recipient described in clause (iv) to conduct a commercial energy audit.

(ii) AUDIT REQUIREMENTS.—A commercial energy audit conducted using a loan provided under clause (i) shall—

(I) determine the overall consumption of energy of the facility of the eligible recipient;

(II) identify and recommend lifecycle cost-effective opportunities to reduce the energy consumption of the facility of the eligible recipient, including through energy efficient—

(aa) lighting;

(bb) heating, ventilation, and air conditioning systems;

(cc) windows;

(dd) appliances; and

(ee) insulation and building envelopes;

(III) estimate the energy and cost savings potential of the opportunities identified in subclause (II) using software approved by the Secretary;

(IV) identify—

(aa) the period and level of peak energy demand for each building within the facility of the eligible recipient; and

(bb) the sources of energy consumption that are contributing the most to that period of peak energy demand;

(V) recommend controls and management systems to reduce or redistribute peak energy consumption; and

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(VI) estimate the total energy and cost savings potential for the facility of the eligible recipient if all recommended upgrades and retrofits are implemented, using software approved by the Secretary.

(iii) ADDITIONAL AUDIT INCLUSIONS.—A commercial energy audit conducted using a loan provided under clause (i) may recommend strategies to increase energy efficiency of the facility of the eligible recipient through use of electric systems or other high-efficiency systems utilizing fuels, including natural gas and hydrogen.

(iv) ELIGIBLE RECIPIENTS.—An eligible recipient under clause (i) is a business that—

(I) conducts the majority of its business in the State that provides the loan under that clause; and

(II) owns or operates—

(aa) 1 or more commercial buildings; or

(bb) commercial space within a building that serves multiple functions, such as a building for commercial and residential operations.

(B) RESIDENTIAL ENERGY AUDITS.—

(i) IN GENERAL.—A State that receives a capitalization grant under the program may provide a loan to an eligible recipient described in clause (iv) to conduct a residential energy audit.

(ii) RESIDENTIAL ENERGY AUDIT REQUIREMENTS.—A residential energy audit conducted using a loan under clause (i) shall—

(I) utilize the same evaluation criteria as the Home Performance Assessment used in the Energy Star program established under section 324A of the Energy Policy and Conservation Act (42 U.S.C. 6294a);

(II) recommend lifecycle cost-effective opportunities to reduce energy consumption within the residential building of the eligible recipient, including through energy efficient—

(aa) lighting;

(bb) heating, ventilation, and air conditioning systems;

(cc) windows;

(dd) appliances; and

(ee) insulation and building envelopes;

(III) recommend controls and management systems to reduce or redistribute peak energy consumption;

(IV) compare the energy consumption of the residential building of the eligible recipient to comparable residential buildings in the same geographic area; and

(V) provide a Home Energy Score, or equivalent score (as determined by the Secretary), for the residential building of the eligible recipient by using the Home Energy Score Tool of the Department or an equivalent scoring tool.

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(iii) ADDITIONAL AUDIT INCLUSIONS.—A residential energy audit conducted using a loan provided under clause (i) may recommend strategies to increase energy efficiency of the facility of the eligible recipient through use of electric systems or other high-efficiency systems utilizing fuels, including natural gas and hydrogen.

(iv) ELIGIBLE RECIPIENTS.—An eligible recipient under clause (i) is—

(I) an individual who owns—

(aa) a single family home;

(bb) a condominium or duplex; or

(cc) a manufactured housing unit; or

(II) a business that owns or operates a multi-family housing facility.

(C) COMMERCIAL AND RESIDENTIAL ENERGY UPGRADES AND RETROFITS.—

(i) IN GENERAL.—A State that receives a capitalization grant under the program may provide a loan to an eligible recipient described in clause (ii) to carry out upgrades or retrofits of building infrastructure and systems that—

(I) are recommended in the commercial energy audit or residential energy audit, as applicable, completed for the building or facility of the eligible recipient;

(II) satisfy at least 1 of the criteria in the Home Performance Assessment used in the Energy Star program established under section 324A of the Energy Policy and Conservation Act (42 U.S.C. 6294a);

(III) improve, with respect to the building or facility of the eligible recipient—

(aa) the physical comfort of the building or facility occupants;

(bb) the energy efficiency of the building or facility; or

(cc) the quality of the air in the building or facility; and

(IV)(aa) are lifecycle cost-effective; and

(bb)(AA) reduce the energy intensity of the building or facility of the eligible recipient; or

(BB) improve the control and management of energy usage of the building or facility to reduce demand during peak times.

(ii) ELIGIBLE RECIPIENTS.—An eligible recipient under clause (i) is an eligible recipient described in subparagraph (A)(iv) or (B)(iv) that—

(I) has completed a commercial energy audit described in subparagraph (A) or a residential energy audit described in subparagraph (B) using a loan provided under the applicable subparagraph; or

(II) has completed a commercial energy audit or residential energy audit that—

(aa) was not funded by a loan under this paragraph; and

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(bb)(AA) meets the requirements for the applicable audit under subparagraph (A) or (B), as applicable; or

(BB) the Secretary determines is otherwise satisfactory.

(iii) LOAN TERM.—

(I) IN GENERAL.—A loan provided under this subparagraph shall be required to be fully amortized by the earlier of—

(aa) subject to subclause (II), the year in which the upgrades or retrofits carried out using the loan exceed their expected useful life; and

(bb) 15 years after those upgrades or retrofits are installed.

(II) CALCULATION.—For purposes of subclause (I)(aa), in the case of a loan being used to fund multiple upgrades or retrofits, the longest-lived upgrade or retrofit shall be used to calculate the year in which the upgrades or retrofits carried out using the loan exceed their expected useful life.

(D) REFERRAL TO QUALIFIED CONTRACTORS.—Following the completion of an audit under subparagraph (A) or (B) by an eligible recipient of a loan under the applicable subparagraph, the State may refer the eligible recipient to a qualified contractor, as determined by the State, to estimate—

(i) the upfront capital cost of each recommended upgrade; and

(ii) the total upfront capital cost of implementing all recommended upgrades.

(E) LOAN RECIPIENTS.—Each State providing loans under this paragraph shall, to the maximum extent practicable, provide loans to eligible recipients that do not have access to private capital.

(3) GRANTS AND TECHNICAL ASSISTANCE.—

(A) IN GENERAL.—A State that receives a capitalization grant under the program may use not more than 25 percent of the grant funds to provide grants or technical assistance to eligible entities described in subparagraph (B) to carry out the activities described in subparagraphs (A), (B), and (C) of paragraph (2).

(B) ELIGIBLE ENTITY.—An entity eligible for a grant or technical assistance under subparagraph (A) is—

(i) a business that—

(I) is an eligible recipient described in paragraph (2)(A)(iv); and

(II) has fewer than 500 employees; or

(ii) a low-income individual (as defined in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102)) that owns a residential building.

(4) FINAL ASSESSMENT.—A State that provides a capitalization grant under paragraph (2)(C) to an eligible recipient described in clause (ii) of that paragraph may, not later than 1 year after the date on which the upgrades or retrofits funded by the grant under that paragraph are completed, provide

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to the eligible recipient a loan or, in accordance with paragraph (3), a grant to conduct a final energy audit that assesses the total energy savings from the upgrades or retrofits.

(5) ADMINISTRATIVE EXPENSES.—A State that receives a capitalization grant under the program may use not more than 10 percent of the grant funds for administrative expenses.

(f) COORDINATION WITH EXISTING PROGRAMS.—A State receiving a capitalization grant under the program is encouraged to utilize and build on existing programs and infrastructure within the State that may aid the State in carrying out a revolving loan fund program.

(g) LEVERAGING PRIVATE CAPITAL.—A State receiving a capitalization grant under the program shall, to the maximum extent practicable, use the grant to leverage private capital.

(h) OUTREACH.—The Secretary shall engage in outreach to inform States of the availability of capitalization grants under the program.

(i) REPORT.—Each State that receives a capitalization grant under the program shall, not later than 2 years after a grant is received, submit to the Secretary a report that describes—

(1) the number of recipients to which the State has distributed—

(A) loans for—

(i) commercial energy audits under subsection (e)(2)(A);

(ii) residential energy audits under subsection (e)(2)(B);

(iii) energy upgrades and retrofits under subsection (e)(2)(C); and

(B) grants under subsection (e)(3); and

(2) the average capital cost of upgrades and retrofits across all commercial energy audits and residential energy audits that were conducted in the State using loans provided by the State under subsection (e).

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $250,000,000 for fiscal year 2022, to remain available until expended.

SEC. 40503. ENERGY AUDITOR TRAINING GRANT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) COVERED CERTIFICATION.—The term "covered certification" means any of the following certifications:

(A) The American Society of Heating, Refrigerating and Air-Conditioning Engineers Building Energy Assessment Professional certification.

(B) The Association of Energy Engineers Certified Energy Auditor certification.

(C) The Building Performance Institute Home Energy Professional Energy Auditor certification.

(D) The Residential Energy Services Network Home Energy Rater certification.

(E) Any other third-party certification recognized by the Department.

(F) Any third-party certification that the Secretary determines is equivalent to the certifications described in subparagraphs (A) through (E).

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(2) ELIGIBLE STATE.—The term "eligible State" means a State that—

(A) has a demonstrated need for assistance for training energy auditors; and

(B) meets any additional criteria determined necessary by the Secretary.

(b) ESTABLISHMENT.—Under the State Energy Program, the Secretary shall establish a competitive grant program under which the Secretary shall award grants to eligible States to train individuals to conduct energy audits or surveys of commercial and residential buildings.

(c) APPLICATIONS.—

(1) IN GENERAL.—A State seeking a grant under subsection (b) shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including the energy auditor training program plan described in paragraph (2).

(2) ENERGY AUDITOR TRAINING PROGRAM PLAN.—An energy auditor training program plan submitted with an application under paragraph (1) shall include—

(A)(i) a proposed training curriculum for energy audit trainees; and

(ii) an identification of the covered certification that those trainees will receive on completion of that training curriculum;

(B) the expected per-individual cost of training;

(C) a plan for connecting trainees with employment opportunities; and

(D) any additional information required by the Secretary.

(d) AMOUNT OF GRANT.—The amount of a grant awarded to an eligible State under subsection (b)—

(1) shall be determined by the Secretary, taking into account the population of the eligible State; and

(2) shall not exceed $2,000,000 for any eligible State.

(e) USE OF FUNDS.—

(1) IN GENERAL.—An eligible State that receives a grant under subsection (b) shall use the grant funds—

(A) to cover any cost associated with individuals being trained or certified to conduct energy audits by—

(i) the State; or

(ii) a State-certified third party training program; and

(B) subject to paragraph (2), to pay the wages of a trainee during the period in which the trainee receives training and certification.

(2) LIMITATION.—Not more than 10 percent of grant funds provided under subsection (b) to an eligible State may be used for the purpose described in paragraph (1)(B).

(f) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Secretary of Labor.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $40,000,000 for the period of fiscal years 2022 through 2026.

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Subtitle B—Buildings

SEC. 40511. COST-EFFECTIVE CODES IMPLEMENTATION FOR EFFICIENCY AND RESILIENCE.

(a) IN GENERAL.—Title III of the Energy Conservation and Production Act (42 U.S.C. 6831 et seq.) is amended by adding at the end the following:

"SEC. 309. COST-EFFECTIVE CODES IMPLEMENTATION FOR EFFICIENCY AND RESILIENCE.

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(A) a relevant State agency, as determined by the Secretary, such as a State building code agency, State energy office, or Tribal energy office; and

"(B) a partnership.

"(2) PARTNERSHIP.—The term 'partnership' means a partnership between an eligible entity described in paragraph (1)(A) and 1 or more of the following entities:

"(A) Local building code agencies.

"(B) Codes and standards developers.

"(C) Associations of builders and design and construction professionals.

"(D) Local and utility energy efficiency programs.

"(E) Consumer, energy efficiency, and environmental advocates.

"(F) Other entities, as determined by the Secretary.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

"(b) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall establish within the Building Technologies Office of the Department of Energy a program under which the Secretary shall award grants on a competitive basis to eligible entities to enable sustained cost-effective implementation of updated building energy codes.

"(2) UPDATED BUILDING ENERGY CODE.—An update to a building energy code under this section, including an amendment that results in increased efficiency compared to the previously adopted building energy code, shall include any update made available after the existing building energy code, even if it is not the most recent updated code available.

"(c) CRITERIA; PRIORITY.—In awarding grants under subsection (b), the Secretary shall—

"(1) consider—

"(A) prospective energy savings and plans to measure the savings, including utilizing the Environmental Protection Agency Portfolio Manager, the Home Energy Score rating of the Office of Energy Efficiency and Renewable Energy of the Department of Energy, the Energy Star Building rating methodologies of the Environmental Protection Agency, and other methodologies determined appropriate by the Secretary;

"(B) the long-term sustainability of those measures and savings;

"(C) prospective benefits, and plans to assess the benefits, including benefits relating to—

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"(i) resilience and peak load reduction;
"(ii) occupant safety and health; and
"(iii) environmental performance;
"(D) the demonstrated capacity of the eligible entity to carry out the proposed project; and
"(E) the need of the eligible entity for assistance; and
"(2) give priority to applications from partnerships.
"(d) ELIGIBLE ACTIVITIES.—
"(1) IN GENERAL.—An eligible entity awarded a grant under this section may use the grant funds—
"(A) to create or enable State or regional partnerships to provide training and materials to—
"(i) builders, contractors and subcontractors, architects, and other design and construction professionals, relating to meeting updated building energy codes in a cost-effective manner; and
"(ii) building code officials, relating to improving implementation of and compliance with building energy codes;
"(B) to collect and disseminate quantitative data on construction and codes implementation, including code pathways, performance metrics, and technologies used;
"(C) to develop and implement a plan for highly effective codes implementation, including measuring compliance;
"(D) to address various implementation needs in rural, suburban, and urban areas; and
"(E) to implement updates in energy codes for—
"(i) new residential and commercial buildings (including multifamily buildings); and
"(ii) additions and alterations to existing residential and commercial buildings (including multifamily buildings).
"(2) RELATED TOPICS.—Training and materials provided using a grant under this section may include information on the relationship between energy codes and—
"(A) cost-effective, high-performance, and zero-net-energy buildings;
"(B) improving resilience, health, and safety;
"(C) water savings and other environmental impacts; and
"(D) the economic impacts of energy codes.
"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $225,000,000 for the period of fiscal years 2022 through 2026.".
(b) CONFORMING AMENDMENT.—Section 303 of the Energy Conservation and Production Act (42 U.S.C. 6832) is amended, in the matter preceding paragraph (1), by striking "As used in" and inserting "Except as otherwise provided, in".

SEC. 40512. BUILDING, TRAINING, AND ASSESSMENT CENTERS.

(a) IN GENERAL.—The Secretary shall provide grants to institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) and Tribal Colleges or Universities (as defined in section 316(b) of that Act (20 U.S.C. 1059c(b))) to establish building training and assessment centers—

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(1) to identify opportunities for optimizing energy efficiency and environmental performance in buildings;

(2) to promote the application of emerging concepts and technologies in commercial and institutional buildings;

(3) to train engineers, architects, building scientists, building energy permitting and enforcement officials, and building technicians in energy-efficient design and operation;

(4) to assist institutions of higher education and Tribal Colleges or Universities in training building technicians;

(5) to promote research and development for the use of alternative energy sources and distributed generation to supply heat and power for buildings, particularly energy-intensive buildings; and

(6) to coordinate with and assist State-accredited technical training centers, community colleges, Tribal Colleges or Universities, and local offices of the National Institute of Food and Agriculture and ensure appropriate services are provided under this section to each region of the United States.

(b) COORDINATION AND NONDUPLICATION.—

(1) IN GENERAL.—The Secretary shall coordinate the program with the industrial research and assessment centers program under section 457 of the Energy Independence and Security Act of 2007 (as added by section 40521(b)) and with other Federal programs to avoid duplication of effort.

(2) COLLOCATION.—To the maximum extent practicable, building, training, and assessment centers established under this section shall be collocated with industrial research and assessment centers (as defined in section 40531).

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $10,000,000 for fiscal year 2022, to remain available until expended.

SEC. 40513. CAREER SKILLS TRAINING.

(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term "eligible entity" means a nonprofit partnership that—

(1) includes the equal participation of industry, including public or private employers, and labor organizations, including joint labor-management training programs;

(2) may include workforce investment boards, community-based organizations, qualified service and conservation corps, educational institutions, small businesses, cooperatives, State and local veterans agencies, and veterans service organizations; and

(3) demonstrates—

(A) experience in implementing and operating worker skills training and education programs;

(B) the ability to identify and involve in training programs carried out under this section, target populations of individuals who would benefit from training and be actively involved in activities relating to energy efficiency and renewable energy industries; and

(C) the ability to help individuals achieve economic self-sufficiency.

(b) ESTABLISHMENT.—The Secretary shall award grants to eligible entities to pay the Federal share of associated career skills training programs under which students concurrently receive classroom instruction and on-the-job training for the purpose of obtaining

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an industry-related certification to install energy efficient buildings technologies.

(c) FEDERAL SHARE.—The Federal share of the cost of carrying out a career skills training program described in subsection (b) shall be 50 percent.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $10,000,000 for fiscal year 2022, to remain available until expended.

SEC. 40514. COMMERCIAL BUILDING ENERGY CONSUMPTION INFORMATION SHARING.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Energy Information Administration.

(2) AGREEMENT.—The term "Agreement" means the agreement entered into under subsection (b).

(3) SURVEY.—The term "Survey" means the Commercial Building Energy Consumption Survey.

(b) AUTHORIZATION OF AGREEMENT.—Not later than 120 days after the date of enactment of this Act, the Administrator and the Administrator of the Environmental Protection Agency shall sign, and submit to Congress, an information sharing agreement relating to commercial building energy consumption data.

(c) CONTENT OF AGREEMENT.—The Agreement shall—

(1) provide, to the extent permitted by law, that—

(A) the Administrator shall have access to building-specific data in the Portfolio Manager database of the Environmental Protection Agency; and

(B) the Administrator of the Environmental Protection Agency shall have access to building-specific data collected by the Survey;

(2) describe the manner in which the Administrator shall use the data described in paragraph (1) and subsection (d);

(3) describe and compare—

(A) the methodologies that the Energy Information Administration, the Environmental Protection Agency, and State and local government managers use to maximize the quality, reliability, and integrity of data collected through the Survey, the Portfolio Manager database of the Environmental Protection Agency, and State and local building energy disclosure laws (including regulations), respectively, and the manner in which those methodologies can be improved; and

(B) consistencies and variations in data for the same buildings captured in—

(i)(I) the 2018 Survey cycle; and

(II) each subsequent Survey cycle; and

(ii) the Portfolio Manager database of the Environmental Protection Agency; and

(4) consider whether, and the methods by which, the Administrator may collect and publish new iterations of Survey data every 3 years—

(A) using the Survey processes of the Administrator; or

(B) as supplemented by information in the Portfolio Manager database of the Environmental Protection Agency.

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(d) DATA.—The data referred in subsection (c)(2) includes data that—

(1) is collected through the Portfolio Manager database of the Environmental Protection Agency;

(2) is required to be publicly available on the internet under State and local government building energy disclosure laws (including regulations); and

(3) includes information on private sector buildings that are not less than 250,000 square feet.

(e) PROTECTION OF INFORMATION.—In carrying out the agreement, the Administrator and the Administrator of the Environmental Protection Agency shall protect information in accordance with—

(1) section 552(b)(4) of title 5, United States Code (commonly known as the "Freedom of Information Act");

(2) subchapter III of chapter 35 of title 44, United States Code; and

(3) any other applicable law (including regulations).

Subtitle C—Industrial Energy Efficiency

PART I—INDUSTRY

SEC. 40521. FUTURE OF INDUSTRY PROGRAM AND INDUSTRIAL RESEARCH AND ASSESSMENT CENTERS.

(a) FUTURE OF INDUSTRY PROGRAM.—

(1) IN GENERAL.—Section 452 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17111) is amended—

(A) by striking the section heading and inserting the following: "future of industry program";

(B) in subsection (a)(2)—

(i) by redesignating subparagraph (E) as subparagraph (F); and

(ii) by inserting after subparagraph (D) the following:

"(E) water and wastewater treatment facilities, including systems that treat municipal, industrial, and agricultural waste; and";

(C) by striking subsection (e); and

(D) by redesignating subsection (f) as subsection (e).

(2) CONFORMING AMENDMENT.—Section 454(b)(2)(C) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17113(b)(2)(C)) is amended by striking "energy-intensive industries" and inserting "Future of Industry".

(b) INDUSTRIAL RESEARCH AND ASSESSMENT CENTERS.—Subtitle D of title IV of the Energy Independence and Security Act of 2007 (42 U.S.C. 17111 et seq.) is amended by adding at the end the following:

"SEC. 457. INDUSTRIAL RESEARCH AND ASSESSMENT CENTERS.

"(a) DEFINITIONS.—In this section:

"(1) COVERED PROJECT.—The term 'covered project' means a project—

"(A) that has been recommended in an energy assessment described in paragraph (2)(A) conducted for an eligible entity; and

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"(B) with respect to which the plant site of that eligible entity—

"(i) improves—

"(I) energy efficiency;

"(II) material efficiency;

"(III) cybersecurity; or

"(IV) productivity; or

"(ii) reduces—

"(I) waste production;

"(II) greenhouse gas emissions; or

"(III) nongreenhouse gas pollution.

"(2) ELIGIBLE ENTITY.—The term 'eligible entity' means a small- or medium-sized manufacturer that has had an energy assessment completed by—

"(A) an industrial research and assessment center;

"(B) a Department of Energy Combined Heat and Power Technical Assistance Partnership jointly with an industrial research and assessment center; or

"(C) a third-party assessor that provides an assessment equivalent to an assessment described in subparagraph (A) or (B), as determined by the Secretary.

"(3) ENERGY SERVICE PROVIDER.—The term 'energy service provider' means—

"(A) any business providing technology or services to improve the energy efficiency, water efficiency, power factor, or load management of a manufacturing site or other industrial process in an energy-intensive industry (as defined in section 452(a)); and

"(B) any utility operating under a utility energy service project.

"(4) INDUSTRIAL RESEARCH AND ASSESSMENT CENTER.—The term 'industrial research and assessment center' means—

"(A) an institution of higher education-based industrial research and assessment center that is funded by the Secretary under subsection (b); and

"(B) an industrial research and assessment center at a trade school, community college, or union training program that is funded by the Secretary under subsection (f).

"(5) PROGRAM.—The term 'Program' means the program for implementation grants established under subsection (i)(1).

"(6) SMALL- OR MEDIUM-SIZED MANUFACTURER.—The term 'small- or medium-sized manufacturer' means a manufacturing firm—

"(A) the gross annual sales of which are less than $100,000,000;

"(B) that has fewer than 500 employees at the plant site of the manufacturing firm; and

"(C) the annual energy bills of which total more than $100,000 but less than $3,500,000.

"(b) INSTITUTION OF HIGHER EDUCATION-BASED INDUSTRIAL RESEARCH AND ASSESSMENT CENTERS.—

"(1) IN GENERAL.—The Secretary shall provide funding to institution of higher education-based industrial research and assessment centers.

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"(2) PURPOSE.—The purpose of each institution of higher education-based industrial research and assessment center shall be—

"(A) to provide in-depth assessments of small- and medium-sized manufacturer plant sites to evaluate the facilities, services, and manufacturing operations of the plant sites;

"(B) to identify opportunities for optimizing energy efficiency and environmental performance, including implementation of—

"(i) smart manufacturing;

"(ii) energy management systems;

"(iii) sustainable manufacturing;

"(iv) information technology advancements for supply chain analysis, logistics, system monitoring, industrial and manufacturing processes, and other purposes; and

"(v) waste management systems;

"(C) to promote applications of emerging concepts and technologies in small- and medium-sized manufacturers (including water and wastewater treatment facilities and federally owned manufacturing facilities);

"(D) to promote research and development for the use of alternative energy sources to supply heat, power, and new feedstocks for energy-intensive industries;

"(E) to coordinate with appropriate Federal and State research offices;

"(F) to provide a clearinghouse for industrial process and energy efficiency technical assistance resources; and

"(G) to coordinate with State-accredited technical training centers and community colleges, while ensuring appropriate services to all regions of the United States.

"(c) COORDINATION.—To increase the value and capabilities of the industrial research and assessment centers, the centers shall—

"(1) coordinate with Manufacturing Extension Partnership Centers of the National Institute of Standards and Technology;

"(2) coordinate with the Federal Energy Management Program and the Building Technologies Office of the Department of Energy to provide building assessment services to manufacturers;

"(3) increase partnerships with the National Laboratories of the Department of Energy to leverage the expertise, technologies, and research and development capabilities of the National Laboratories for national industrial and manufacturing needs;

"(4) increase partnerships with energy service providers and technology providers to leverage private sector expertise and accelerate deployment of new and existing technologies and processes for energy efficiency, power factor, and load management;

"(5) identify opportunities for reducing greenhouse gas emissions and other air emissions; and

"(6) promote sustainable manufacturing practices for small- and medium-sized manufacturers.

"(d) OUTREACH.—The Secretary shall provide funding for—

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"(1) outreach activities by the industrial research and assessment centers to inform small- and medium-sized manufacturers of the information, technologies, and services available; and

"(2) coordination activities by each industrial research and assessment center to leverage efforts with—

"(A) Federal, State, and Tribal efforts;

"(B) the efforts of utilities and energy service providers;

"(C) the efforts of regional energy efficiency organizations; and

"(D) the efforts of other industrial research and assessment centers.

"(e) CENTERS OF EXCELLENCE.—

"(1) ESTABLISHMENT.—The Secretary shall establish a Center of Excellence at not more than 5 of the highest-performing industrial research and assessment centers, as determined by the Secretary.

"(2) DUTIES.—A Center of Excellence shall coordinate with and advise the industrial research and assessment centers located in the region of the Center of Excellence, including—

"(A) by mentoring new directors and staff of the industrial research and assessment centers with respect to—

"(i) the availability of resources; and

"(ii) best practices for carrying out assessments, including through the participation of the staff of the Center of Excellence in assessments carried out by new industrial research and assessment centers;

"(B) by providing training to staff and students at the industrial research and assessment centers on new technologies, practices, and tools to expand the scope and impact of the assessments carried out by the centers;

"(C) by assisting the industrial research and assessment centers with specialized technical opportunities, including by providing a clearinghouse of available expertise and tools to assist the centers and clients of the centers in assessing and implementing those opportunities;

"(D) by identifying and coordinating with regional, State, local, Tribal, and utility energy efficiency programs for the purpose of facilitating efforts by industrial research and assessment centers to connect industrial facilities receiving assessments from those centers with regional, State, local, and utility energy efficiency programs that could aid the industrial facilities in implementing any recommendations resulting from the assessments;

"(E) by facilitating coordination between the industrial research and assessment centers and other Federal programs described in paragraphs (1) through (3) of subsection (c); and

"(F) by coordinating the outreach activities of the industrial research and assessment centers under subsection (d)(1).

"(3) FUNDING.—For each fiscal year, out of any amounts made available to carry out this section under subsection (j), the Secretary shall use not less than $500,000 to support each Center of Excellence.

"(f) EXPANSION OF INDUSTRIAL RESEARCH AND ASSESSMENT CENTERS.—

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"(1) IN GENERAL.—The Secretary shall provide funding to establish additional industrial research and assessment centers at trade schools, community colleges, and union training programs.

"(2) PURPOSE.—

"(A) IN GENERAL.—Subject to subparagraph (B), to the maximum extent practicable, an industrial research and assessment center established under paragraph (1) shall have the same purpose as an institution of higher education-based industrial research center that is funded by the Secretary under subsection (b)(1).

"(B) CONSIDERATION OF CAPABILITIES.—In evaluating or establishing the purpose of an industrial research and assessment center established under paragraph (1), the Secretary shall take into consideration the varying capabilities of trade schools, community colleges, and union training programs.

"(g) WORKFORCE TRAINING.—

"(1) INTERNSHIPS.—The Secretary shall pay the Federal share of associated internship programs under which students work with or for industries, manufacturers, and energy service providers to implement the recommendations of industrial research and assessment centers.

"(2) APPRENTICESHIPS.—The Secretary shall pay the Federal share of associated apprenticeship programs under which—

"(A) students work with or for industries, manufacturers, and energy service providers to implement the recommendations of industrial research and assessment centers; and

"(B) employees of facilities that have received an assessment from an industrial research and assessment center work with or for an industrial research and assessment center to gain knowledge on engineering practices and processes to improve productivity and energy savings.

"(3) FEDERAL SHARE.—The Federal share of the cost of carrying out internship programs described in paragraph (1) and apprenticeship programs described in paragraph (2) shall be 50 percent.

"(h) SMALL BUSINESS LOANS.—The Administrator of the Small Business Administration shall, to the maximum extent practicable, expedite consideration of applications from eligible small business concerns for loans under the Small Business Act (15 U.S.C. 631 et seq.) to implement recommendations developed by the industrial research and assessment centers.

"(i) IMPLEMENTATION GRANTS.—

"(1) IN GENERAL.—The Secretary shall establish a program under which the Secretary shall provide grants to eligible entities to implement covered projects.

"(2) APPLICATION.—An eligible entity seeking a grant under the Program shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a demonstration of need for financial assistance to implement the proposed covered project.

"(3) PRIORITY.—In awarding grants under the Program, the Secretary shall give priority to eligible entities that—

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"(A) have had an energy assessment completed by an industrial research and assessment center; and

"(B) propose to carry out a covered project with a greater potential for—

"(i) energy efficiency gains; or

"(ii) greenhouse gas emissions reductions.

"(4) GRANT AMOUNT.—

"(A) MAXIMUM AMOUNT.—The amount of a grant provided to an eligible entity under the Program shall not exceed $300,000.

"(B) FEDERAL SHARE.—A grant awarded under the Program for a covered project shall be in an amount that is not more than 50 percent of the cost of the covered project.

"(C) SUPPLEMENT.—A grant received by an eligible entity under the Program shall supplement, not supplant, any private or State funds available to the eligible entity to carry out the covered project.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for the period of fiscal years 2022 through 2026—

"(1) $150,000,000 to carry out subsections (a) through (h); and

"(2) $400,000,000 to carry out subsection (i).".

(c) CLERICAL AMENDMENT.—The table of contents of the Energy Independence and Security Act of 2007 (42 U.S.C. prec. 17001) is amended by adding at the end of the items relating to subtitle D of title IV the following:

"Sec. 457. Industrial research and assessment centers.".

SEC. 40522. SUSTAINABLE MANUFACTURING INITIATIVE.

(a) IN GENERAL.—Part E of title III of the Energy Policy and Conservation Act (42 U.S.C. 6341 et seq.) is amended by adding at the end the following:

"SEC. 376. SUSTAINABLE MANUFACTURING INITIATIVE.

"(a) IN GENERAL.—As part of the Office of Energy Efficiency and Renewable Energy of the Department of Energy, the Secretary, on the request of a manufacturer, shall carry out onsite technical assessments to identify opportunities for—

"(1) maximizing the energy efficiency of industrial processes and cross-cutting systems;

"(2) preventing pollution and minimizing waste;

"(3) improving efficient use of water in manufacturing processes;

"(4) conserving natural resources; and

"(5) achieving such other goals as the Secretary determines to be appropriate.

"(b) COORDINATION.—To implement any recommendations resulting from an onsite technical assessment carried out under subsection (a) and to accelerate the adoption of new and existing technologies and processes that improve energy efficiency, the Secretary shall coordinate with—

"(1) the Advanced Manufacturing Office of the Department of Energy;

"(2) the Building Technologies Office of the Department of Energy;

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"(3) the Federal Energy Management Program of the Department of Energy; and

"(4) the private sector and other appropriate agencies, including the National Institute of Standards and Technology.

"(c) RESEARCH AND DEVELOPMENT PROGRAM FOR SUSTAINABLE MANUFACTURING AND INDUSTRIAL TECHNOLOGIES AND PROCESSES.—As part of the industrial efficiency programs of the Department of Energy, the Secretary shall carry out a joint industry-government partnership program to research, develop, and demonstrate new sustainable manufacturing and industrial technologies and processes that maximize the energy efficiency of industrial plants, reduce pollution, and conserve natural resources.".

(b) CLERICAL AMENDMENT.—The table of contents of the Energy Policy and Conservation Act (42 U.S.C. prec. 6201) is amended by adding at the end of the items relating to part E of title III the following:

"376. Sustainable manufacturing initiative.".

PART II—SMART MANUFACTURING

SEC. 40531. DEFINITIONS.

In this part:

(1) ENERGY MANAGEMENT SYSTEM.—The term "energy management system" means a business management process based on standards of the American National Standards Institute that enables an organization to follow a systematic approach in achieving continual improvement of energy performance, including energy efficiency, security, use, and consumption.

(2) INDUSTRIAL RESEARCH AND ASSESSMENT CENTER.—The term "industrial research and assessment center" means a center located at an institution of higher education, a trade school, a community college, or a union training program that—

(A) receives funding from the Department;

(B) provides an in-depth assessment of small- and medium-size manufacturer plant sites to evaluate the facilities, services, and manufacturing operations of the plant site; and

(C) identifies opportunities for potential savings for small- and medium-size manufacturer plant sites from energy efficiency improvements, waste minimization, pollution prevention, and productivity improvement.

(3) INFORMATION AND COMMUNICATION TECHNOLOGY.—The term "information and communication technology" means any electronic system or equipment (including the content contained in the system or equipment) used to create, convert, communicate, or duplicate data or information, including computer hardware, firmware, software, communication protocols, networks, and data interfaces.

(4) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(5) NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM.—The term "North American Industry Classification System" means the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting,

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analyzing, and publishing statistical data relating to the business economy of the United States.

(6) SMALL AND MEDIUM MANUFACTURERS.—The term "small and medium manufacturers" means manufacturing firms—

(A) classified in the North American Industry Classification System as any of sectors 31 through 33;

(B) with gross annual sales of less than $100,000,000;

(C) with fewer than 500 employees at the plant site; and

(D) with annual energy bills totaling more than $100,000 and less than $3,500,000.

(7) SMART MANUFACTURING.—The term "smart manufacturing" means advanced technologies in information, automation, monitoring, computation, sensing, modeling, artificial intelligence, analytics, and networking that—

(A) digitally—

(i) simulate manufacturing production lines;

(ii) operate computer-controlled manufacturing equipment;

(iii) monitor and communicate production line status; and

(iv) manage and optimize energy productivity and cost throughout production;

(B) model, simulate, and optimize the energy efficiency of a factory building;

(C) monitor and optimize building energy performance;

(D) model, simulate, and optimize the design of energy efficient and sustainable products, including the use of digital prototyping and additive manufacturing to enhance product design;

(E) connect manufactured products in networks to monitor and optimize the performance of the networks, including automated network operations; and

(F) digitally connect the supply chain network.

SEC. 40532. LEVERAGING EXISTING AGENCY PROGRAMS TO ASSIST SMALL AND MEDIUM MANUFACTURERS.

The Secretary shall expand the scope of technologies covered by the industrial research and assessment centers of the Department—

(1) to include smart manufacturing technologies and practices; and

(2) to equip the directors of the industrial research and assessment centers with the training and tools necessary to provide technical assistance in smart manufacturing technologies and practices, including energy management systems, to manufacturers.

SEC. 40533. LEVERAGING SMART MANUFACTURING INFRASTRUCTURE AT NATIONAL LABORATORIES.

(a) STUDY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall conduct a study on how the Department can increase access to existing high-performance computing resources in the National Laboratories, particularly for small and medium manufacturers.

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(2) INCLUSIONS.—In identifying ways to increase access to National Laboratories under paragraph (1), the Secretary shall—

(A) focus on increasing access to the computing facilities of the National Laboratories; and

(B) ensure that—

(i) the information from the manufacturer is protected; and

(ii) the security of the National Laboratory facility is maintained.

(3) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the results of the study.

(b) ACTIONS FOR INCREASED ACCESS.—The Secretary shall facilitate access to the National Laboratories studied under subsection (a) for small and medium manufacturers so that small and medium manufacturers can fully use the high-performance computing resources of the National Laboratories to enhance the manufacturing competitiveness of the United States.

SEC. 40534. STATE MANUFACTURING LEADERSHIP.

(a) FINANCIAL ASSISTANCE AUTHORIZED.—The Secretary may provide financial assistance on a competitive basis to States for the establishment of programs to be used as models for supporting the implementation of smart manufacturing technologies.

(b) APPLICATIONS.—

(1) IN GENERAL.—To be eligible to receive financial assistance under this section, a State shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(2) CRITERIA.—The Secretary shall evaluate an application for financial assistance under this section on the basis of merit using criteria identified by the Secretary, including—

(A) technical merit, innovation, and impact;

(B) research approach, workplan, and deliverables;

(C) academic and private sector partners; and

(D) alternate sources of funding.

(c) REQUIREMENTS.—

(1) TERM.—The term of an award of financial assistance under this section shall not exceed 3 years.

(2) MAXIMUM AMOUNT.—The amount of an award of financial assistance under this section shall be not more than $2,000,000.

(3) MATCHING REQUIREMENT.—Each State that receives financial assistance under this section shall contribute matching funds in an amount equal to not less than 30 percent of the amount of the financial assistance.

(d) USE OF FUNDS.—A State may use financial assistance provided under this section—

(1) to facilitate access to high-performance computing resources for small and medium manufacturers; and

(2) to provide assistance to small and medium manufacturers to implement smart manufacturing technologies and practices.

(e) EVALUATION.—The Secretary shall conduct semiannual evaluations of each award of financial assistance under this section—

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(1) to determine the impact and effectiveness of programs funded with the financial assistance; and

(2) to provide guidance to States on ways to better execute the program of the State.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $50,000,000 for the period of fiscal years 2022 through 2026.

SEC. 40535. REPORT.

The Secretary annually shall submit to Congress and make publicly available a report on the progress made in advancing smart manufacturing in the United States.

Subtitle D—Schools and Nonprofits

SEC. 40541. GRANTS FOR ENERGY EFFICIENCY IMPROVEMENTS AND RENEWABLE ENERGY IMPROVEMENTS AT PUBLIC SCHOOL FACILITIES.

(a) DEFINITIONS.—In this section:

(1) ALTERNATIVE FUELED VEHICLE.—The term "alternative fueled vehicle" has the meaning given the term in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211).

(2) ALTERNATIVE FUELED VEHICLE INFRASTRUCTURE.—The term "alternative fueled vehicle infrastructure" means infrastructure used to charge or fuel an alternative fueled vehicle.

(3) ELIGIBLE ENTITY.—The term "eligible entity" means a consortium of—

(A) 1 local educational agency; and

(B) 1 or more—

(i) schools;

(ii) nonprofit organizations that have the knowledge and capacity to partner and assist with energy improvements;

(iii) for-profit organizations that have the knowledge and capacity to partner and assist with energy improvements; or

(iv) community partners that have the knowledge and capacity to partner and assist with energy improvements.

(4) ENERGY IMPROVEMENT.—The term "energy improvement" means—

(A) any improvement, repair, or renovation to a school that results in a direct reduction in school energy costs, including improvements to the envelope, air conditioning system, ventilation system, heating system, domestic hot water heating system, compressed air system, distribution system, lighting system, power system, and controls of a building;

(B) any improvement, repair, or renovation to, or installation in, a school that—

(i) leads to an improvement in teacher and student health, including indoor air quality; and

(ii) achieves energy savings;

(C) any improvement, repair, or renovation to a school involving the installation of renewable energy technologies;

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(D) the installation of alternative fueled vehicle infrastructure on school grounds for—

(i) exclusive use of school buses, school fleets, or students; or

(ii) the general public; and

(E) the purchase or lease of alternative fueled vehicles to be used by a school, including school buses, fleet vehicles, and other operational vehicles.

(5) HIGH SCHOOL.—The term "high school" has the meaning given the term in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(6) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given the term in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(7) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means—

(A) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; or

(B) a mutual or cooperative electric company described in section 501(c)(12) of such Code.

(8) PARTNERING LOCAL EDUCATIONAL AGENCY.—The term "partnering local educational agency", with respect to an eligible entity, means the local educational agency participating in the consortium of the eligible entity.

(b) GRANTS.—The Secretary shall award competitive grants to eligible entities to make energy improvements in accordance with this section.

(c) APPLICATIONS.—

(1) IN GENERAL.—An eligible entity desiring a grant under this section shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(2) CONTENTS.—The application submitted under paragraph (1) shall include each of the following:

(A) A needs assessment of the current condition of the school and school facilities that would receive the energy improvements if the application were approved.

(B) A draft work plan of the intended achievements of the eligible entity at the school.

(C) A description of the energy improvements that the eligible entity would carry out at the school if the application were approved.

(D) A description of the capacity of the eligible entity to provide services and comprehensive support to make the energy improvements referred to in subparagraph (C).

(E) An assessment of the expected needs of the eligible entity for operation and maintenance training funds, and a plan for use of those funds, if applicable.

(F) An assessment of the expected energy efficiency, energy savings, and safety benefits of the energy improvements.

(G) A cost estimate of the proposed energy improvements.

(H) An identification of other resources that are available to carry out the activities for which grant funds are

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requested under this section, including the availability of utility programs and public benefit funds.

(d) PRIORITY.—

(1) IN GENERAL.—In awarding grants under this section, the Secretary shall give priority to an eligible entity—

(A) that has renovation, repair, and improvement funding needs;

(B)(i) that, as determined by the Secretary, serves a high percentage of students, including students in a high school in accordance with paragraph (2), who are eligible for a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.); or

(ii) the partnering local educational agency of which is designated with a school district locale code of 41, 42, or 43, as determined by the National Center for Education Statistics in consultation with the Bureau of the Census; and

(C) that leverages private sector investment through energy-related performance contracting.

(2) HIGH SCHOOL STUDENTS.—In the case of students in a high school, the percentage of students eligible for a free or reduced price lunch described in paragraph (1)(B)(i) shall be calculated using data from the schools that feed into the high school.

(e) COMPETITIVE CRITERIA.—The competitive criteria used by the Secretary to award grants under this section shall include the following:

(1) The extent of the disparity between the fiscal capacity of the eligible entity to carry out energy improvements at school facilities and the needs of the partnering local educational agency for those energy improvements, including consideration of—

(A) the current and historic ability of the partnering local educational agency to raise funds for construction, renovation, modernization, and major repair projects for schools;

(B) the ability of the partnering local educational agency to issue bonds or receive other funds to support the current infrastructure needs of the partnering local educational agency for schools; and

(C) the bond rating of the partnering local educational agency.

(2) The likelihood that the partnering local educational agency or eligible entity will maintain, in good condition, any school and school facility that is the subject of improvements.

(3) The potential energy efficiency and safety benefits from the proposed energy improvements.

(f) USE OF GRANT AMOUNTS.—

(1) IN GENERAL.—Except as provided in this subsection, an eligible entity receiving a grant under this section shall use the grant amounts only to make the energy improvements described in the application submitted by the eligible entity under subsection (c).

(2) OPERATION AND MAINTENANCE TRAINING.—An eligible entity receiving a grant under this section may use not more

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than 5 percent of the grant amounts for operation and maintenance training for energy efficiency and renewable energy improvements, such as maintenance staff and teacher training, education, and preventative maintenance training.

(3) THIRD-PARTY INVESTIGATION AND ANALYSIS.—An eligible entity receiving a grant under this section may use a portion of the grant amounts for a third-party investigation and analysis of the energy improvements carried out by the eligible entity, such as energy audits and existing building commissioning.

(4) CONTINUING EDUCATION.—An eligible entity receiving a grant under this section may use not more than 3 percent of the grant amounts to develop a continuing education curriculum relating to energy improvements.

(g) COMPETITION IN CONTRACTING.—If an eligible entity receiving a grant under this section uses grant funds to carry out repair or renovation through a contract, the eligible entity shall be required to ensure that the contract process—

(1) through full and open competition, ensures the maximum practicable number of qualified bidders, including small, minority, and women-owned businesses; and

(2) gives priority to businesses located in, or resources common to, the State or geographical area in which the repair or renovation under the contract will be carried out.

(h) BEST PRACTICES.—The Secretary shall develop and publish guidelines and best practices for activities carried out under this section.

(i) REPORT BY ELIGIBLE ENTITY.—An eligible entity receiving a grant under this section shall submit to the Secretary, at such time as the Secretary may require, a report describing—

(1) the use of the grant funds for energy improvements;

(2) the estimated cost savings realized by those energy improvements;

(3) the results of any third-party investigation and analysis conducted relating to those energy improvements;

(4) the use of any utility programs and public benefit funds; and

(5) the use of performance tracking for energy improvements, such as—

(A) the Energy Star program established under section 324A of the Energy Policy and Conservation Act (42 U.S.C. 6294a); or

(B) the United States Green Building Council Leadership in Energy and Environmental Design (LEED) green building rating system for existing buildings.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $500,000,000 for the period of fiscal years 2022 through 2026.

SEC. 40542. ENERGY EFFICIENCY MATERIALS PILOT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) APPLICANT.—The term "applicant" means a nonprofit organization that applies for a grant under this section.

(2) ENERGY-EFFICIENCY MATERIAL.—

(A) IN GENERAL.—The term "energy-efficiency material" means a material (including a product, equipment, or

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system) the installation of which results in a reduction in use by a nonprofit organization of energy or fuel.

(B) INCLUSIONS.—The term "energy-efficiency material" includes—

(i) a roof or lighting system or component of the system;

(ii) a window;

(iii) a door, including a security door; and

(iv) a heating, ventilation, or air conditioning system or component of the system (including insulation and wiring and plumbing improvements needed to serve a more efficient system).

(3) NONPROFIT BUILDING.—The term "nonprofit building" means a building operated and owned by an organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code.

(b) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a pilot program to award grants for the purpose of providing nonprofit buildings with energy-efficiency materials.

(c) GRANTS.—

(1) IN GENERAL.—The Secretary may award grants under the program established under subsection (b).

(2) APPLICATION.—The Secretary may award a grant under paragraph (1) if an applicant submits to the Secretary an application at such time, in such form, and containing such information as the Secretary may prescribe.

(3) CRITERIA FOR GRANT.—In determining whether to award a grant under paragraph (1), the Secretary shall apply performance-based criteria, which shall give priority to applicants based on—

(A) the energy savings achieved;

(B) the cost effectiveness of the use of energy-efficiency materials;

(C) an effective plan for evaluation, measurement, and verification of energy savings; and

(D) the financial need of the applicant.

(4) LIMITATION ON INDIVIDUAL GRANT AMOUNT.—Each grant awarded under this section shall not exceed $200,000.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $50,000,000 for the period of fiscal years 2022 through 2026, to remain available until expended.

Subtitle E—Miscellaneous

SEC. 40551. WEATHERIZATION ASSISTANCE PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for the weatherization assistance program established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.) $3,500,000,000 for fiscal year 2022, to remain available until expended.

(b) APPLICATION OF WAGE RATE REQUIREMENTS TO WEATHERIZATION ASSISTANCE PROGRAM.—With respect to work performed under the weatherization assistance program established under

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part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.) on a project assisted in whole or in part by funding made available under subsection (a), the requirements of section 41101 shall apply only to work performed on multifamily buildings with not fewer than 5 units.

SEC. 40552. ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT PROGRAM.

(a) USE OF FUNDS.—Section 544 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17154) is amended—

(1) in paragraph (13)(D), by striking "and" after the semicolon;

(2) by redesignating paragraph (14) as paragraph (15); and

(3) by inserting after paragraph (13) the following:

"(14) programs for financing energy efficiency, renewable energy, and zero-emission transportation (and associated infrastructure), capital investments, projects, and programs, which may include loan programs and performance contracting programs, for leveraging of additional public and private sector funds, and programs that allow rebates, grants, or other incentives for the purchase and installation of energy efficiency, renewable energy, and zero-emission transportation (and associated infrastructure) measures; and".

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for the Energy Efficiency and Conservation Block Grant Program established under section 542(a) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17152(a)) $550,000,000 for fiscal year 2022, to remain available until expended.

SEC. 40553. SURVEY, ANALYSIS, AND REPORT ON EMPLOYMENT AND DEMOGRAPHICS IN THE ENERGY, ENERGY EFFICIENCY, AND MOTOR VEHICLE SECTORS OF THE UNITED STATES.

(a) ENERGY JOBS COUNCIL.—

(1) ESTABLISHMENT.—The Secretary shall establish a council, to be known as the "Energy Jobs Council" (referred to in this section as the "Council").

(2) MEMBERSHIP.—The Council shall be comprised of—

(A) to be appointed by the Secretary—

(i) 1 or more representatives of the Energy Information Administration; and

(ii) 1 or more representatives of a State energy office that are serving as members of the State Energy Advisory Board established by section 365(g) of the Energy Policy and Conservation Act (42 U.S.C. 6325(g));

(B) to be appointed by the Secretary of Commerce—

(i) 1 or more representatives of the Department of Commerce; and

(ii) 1 or more representatives of the Bureau of the Census;

(C) 1 or more representatives of the Bureau of Labor Statistics, to be appointed by the Secretary of Labor; and

(D) 1 or more representatives of any other Federal agency the assistance of which is required to carry out this section, as determined by the Secretary, to be appointed by the head of the applicable agency.

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(b) SURVEY AND ANALYSIS.—

(1) IN GENERAL.—The Council shall—

(A) conduct a survey of employers in the energy, energy efficiency, and motor vehicle sectors of the economy of the United States; and

(B) perform an analysis of the employment figures and demographics in those sectors, including the number of personnel in each sector who devote a substantial portion of working hours, as determined by the Secretary, to regulatory compliance matters.

(2) METHODOLOGY.—In conducting the survey and analysis under paragraph (1), the Council shall employ a methodology that—

(A) was approved in 2016 by the Office of Management and Budget for use in the document entitled "OMB Control Number 1910–5179";

(B) uses a representative, stratified sampling of businesses in the United States; and

(C) is designed to elicit a comparable number of responses from businesses in each State and with the same North American Industry Classification System codes as were received for the 2016 and 2017 reports entitled "U.S. Energy and Employment Report".

(3) CONSULTATION.—In conducting the survey and analysis under paragraph (1), the Council shall consult with key stakeholders, including—

(A) as the Council determines to be appropriate, the heads of relevant Federal agencies and offices, including—

(i) the Secretary of Commerce;

(ii) the Secretary of Transportation;

(iii) the Director of the Bureau of the Census;

(iv) the Commissioner of the Bureau of Labor Statistics; and

(v) the Administrator of the Environmental Protection Agency;

(B) States;

(C) the State Energy Advisory Board established by section 365(g) of the Energy Policy and Conservation Act (42 U.S.C. 6325(g)); and

(D) energy industry trade associations.

(c) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall—

(A) make publicly available on the website of the Department a report, to be entitled the "U.S. Energy and Employment Report", describing the employment figures and demographics in the energy, energy efficiency, and motor vehicle sectors of the United States, and the average number of hours devoted to regulatory compliance, based on the survey and analysis conducted under subsection (b); and

(B) subject to the requirements of subchapter III of chapter 35 of title 44, United States Code, make the data collected by the Council publicly available on the website of the Department.

(2) CONTENTS.—

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(A) IN GENERAL.—The report under paragraph (1) shall include employment figures and demographic data for—

(i) the energy sector of the economy of the United States, including—

(I) the electric power generation and fuels sector; and

(II) the transmission, storage, and distribution sector;

(ii) the energy efficiency sector of the economy of the United States; and

(iii) the motor vehicle sector of the economy of the United States.

(B) INCLUSION.—With respect to each sector described in subparagraph (A), the report under paragraph (1) shall include employment figures and demographic data sorted by—

(i) each technology, subtechnology, and fuel type of those sectors; and

(ii) subject to the requirements of the Confidential Information Protection and Statistical Efficiency Act of 2002 (44 U.S.C. 3501 note; Public Law 107–347)—

(I) each State;

(II) each territory of the United States;

(III) the District of Columbia; and

(IV) each county (or equivalent jurisdiction) in the United States.

SEC. 40554. ASSISTING FEDERAL FACILITIES WITH ENERGY CONSERVATION TECHNOLOGIES GRANT PROGRAM.

There is authorized to be appropriated to the Secretary to provide grants authorized under section 546(b) of the National Energy Conservation Policy Act (42 U.S.C. 8256(b)), $250,000,000 for fiscal year 2022, to remain available until expended.

SEC. 40555. REBATES.

There are authorized to be appropriated to the Secretary for the period of fiscal years 2022 and 2023—

(1) $10,000,000 for the extended product system rebate program authorized under section 1005 of the Energy Act of 2020 (42 U.S.C. 6311 note; Public Law 116–260); and

(2) $10,000,000 for the energy efficient transformer rebate program authorized under section 1006 of the Energy Act of 2020 (42 U.S.C. 6317 note; Public Law 116–260).

SEC. 40556. MODEL GUIDANCE FOR COMBINED HEAT AND POWER SYSTEMS AND WASTE HEAT TO POWER SYSTEMS.

(a) DEFINITIONS.—In this section:

(1) ADDITIONAL SERVICES.—The term "additional services" means the provision of supplementary power, backup or standby power, maintenance power, or interruptible power to an electric consumer by an electric utility.

(2) WASTE HEAT TO POWER SYSTEM.—The term "waste heat to power system" means a system that generates electricity through the recovery of waste energy.

(3) OTHER TERMS.—

(A) PURPA.—The terms "electric consumer", "electric utility", "interconnection service", "nonregulated electric utility", and "State regulatory authority" have the

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meanings given those terms in the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.), within the meaning of title I of that Act (16 U.S.C. 2611 et seq.).

(B) EPCA.—The terms "combined heat and power system" and "waste energy" have the meanings given those terms in section 371 of the Energy Policy and Conservation Act (42 U.S.C. 6341).

(b) REVIEW.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with the Federal Energy Regulatory Commission and other appropriate entities, shall review existing rules and procedures relating to interconnection service and additional services throughout the United States for electric generation with nameplate capacity up to 150 megawatts connecting at either distribution or transmission voltage levels to identify barriers to the deployment of combined heat and power systems and waste heat to power systems.

(2) INCLUSION.—The review under this subsection shall include a review of existing rules and procedures relating to—

(A) determining and assigning costs of interconnection service and additional services; and

(B) ensuring adequate cost recovery by an electric utility for interconnection service and additional services.

(c) MODEL GUIDANCE.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary, in consultation with the Federal Energy Regulatory Commission and other appropriate entities, shall issue model guidance for interconnection service and additional services for consideration by State regulatory authorities and nonregulated electric utilities to reduce the barriers identified under subsection (b)(1).

(2) CURRENT BEST PRACTICES.—The model guidance issued under this subsection shall reflect, to the maximum extent practicable, current best practices to encourage the deployment of combined heat and power systems and waste heat to power systems while ensuring the safety and reliability of the interconnected units and the distribution and transmission networks to which the units connect, including—

(A) relevant current standards developed by the Institute of Electrical and Electronic Engineers; and

(B) model codes and rules adopted by—

(i) States; or

(ii) associations of State regulatory agencies.

(3) FACTORS FOR CONSIDERATION.—In establishing the model guidance under this subsection, the Secretary shall take into consideration—

(A) the appropriateness of using standards or procedures for interconnection service that vary based on unit size, fuel type, or other relevant characteristics;

(B) the appropriateness of establishing fast-track procedures for interconnection service;

(C) the value of consistency with Federal interconnection rules established by the Federal Energy Regulatory Commission as of the date of enactment of this Act;

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(D) the best practices used to model outage assumptions and contingencies to determine fees or rates for additional services;

(E) the appropriate duration, magnitude, or usage of demand charge ratchets;

(F) potential alternative arrangements with respect to the procurement of additional services, including—

(i) contracts tailored to individual electric consumers for additional services;

(ii) procurement of additional services by an electric utility from a competitive market; and

(iii) waivers of fees or rates for additional services for small electric consumers; and

(G) outcomes such as increased electric reliability, fuel diversification, enhanced power quality, and reduced electric losses that may result from increased use of combined heat and power systems and waste heat to power systems.

TITLE VI—METHANE REDUCTION INFRASTRUCTURE

SEC. 40601. ORPHANED WELL SITE PLUGGING, REMEDIATION, AND RESTORATION.

Section 349 of the Energy Policy Act of 2005 (42 U.S.C. 15907) is amended to read as follows:

"SEC. 349. ORPHANED WELL SITE PLUGGING, REMEDIATION, AND RESTORATION.

"(a) DEFINITIONS.—In this section:

"(1) FEDERAL LAND.—The term 'Federal land' means land administered by a land management agency within—

"(A) the Department of Agriculture; or

"(B) the Department of the Interior.

"(2) IDLED WELL.—The term 'idled well' means a well—

"(A) that has been nonoperational for not fewer than 4 years; and

"(B) for which there is no anticipated beneficial future use.

"(3) INDIAN TRIBE.—The term 'Indian Tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

"(4) OPERATOR.—The term 'operator', with respect to an oil or gas operation, means any entity, including a lessee or operating rights owner, that has provided to a relevant authority a written statement that the entity is responsible for the oil or gas operation, or any portion of the operation.

"(5) ORPHANED WELL.—The term 'orphaned well'—

"(A) with respect to Federal land or Tribal land, means a well—

"(i)(I) that is not used for an authorized purpose, such as production, injection, or monitoring; and

"(II)(aa) for which no operator can be located;

"(bb) the operator of which is unable—

"(AA) to plug the well; and

"(BB) to remediate and reclaim the well site; or

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"(cc) that is within the National Petroleum Reserve–Alaska; and

"(B) with respect to State or private land—

"(i) has the meaning given the term by the applicable State; or

"(ii) if that State uses different terminology, has the meaning given another term used by the State to describe a well eligible for plugging, remediation, and reclamation by the State.

"(6) TRIBAL LAND.—The term 'Tribal land' means any land or interest in land owned by an Indian Tribe, the title to which is—

"(A) held in trust by the United States; or

"(B) subject to a restriction against alienation under Federal law.

"(b) FEDERAL PROGRAM.—

"(1) ESTABLISHMENT.—Not later than 60 days after the date of enactment of the Infrastructure Investment and Jobs Act, the Secretary shall establish a program to plug, remediate, and reclaim orphaned wells located on Federal land.

"(2) INCLUDED ACTIVITIES.—The program under this subsection shall—

"(A) include a method of—

"(i) identifying, characterizing, and inventorying orphaned wells and associated pipelines, facilities, and infrastructure on Federal land; and

"(ii) ranking those orphaned wells for priority in plugging, remediation, and reclamation, based on—

"(I) public health and safety;

"(II) potential environmental harm; and

"(III) other subsurface impacts or land use priorities;

"(B) distribute funding in accordance with the priorities established under subparagraph (A)(ii) for—

"(i) plugging orphaned wells;

"(ii) remediating and reclaiming well pads and facilities associated with orphaned wells;

"(iii) remediating soil and restoring native species habitat that has been degraded due to the presence of orphaned wells and associated pipelines, facilities, and infrastructure; and

"(iv) remediating land adjacent to orphaned wells and decommissioning or removing associated pipelines, facilities, and infrastructure;

"(C) provide a public accounting of the costs of plugging, remediation, and reclamation for each orphaned well;

"(D) seek to determine the identities of potentially responsible parties associated with the orphaned well (or a surety or guarantor of such a party), to the extent such information can be ascertained, and make efforts to obtain reimbursement for expenditures to the extent practicable;

"(E) measure or estimate and track—

"(i) emissions of methane and other gases associated with orphaned wells; and

"(ii) contamination of groundwater or surface water associated with orphaned wells; and

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"(F) identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on communities of color, low-income communities, and Tribal and indigenous communities.

"(3) IDLED WELLS.—The Secretary, acting through the Director of the Bureau of Land Management, shall—

"(A) periodically review all idled wells on Federal land; and

"(B) reduce the inventory of idled wells on Federal land.

"(4) COOPERATION AND CONSULTATION.—In carrying out the program under this subsection, the Secretary shall—

"(A) work cooperatively with—

"(i) the Secretary of Agriculture;

"(ii) affected Indian Tribes; and

"(iii) each State within which Federal land is located; and

"(B) consult with—

"(i) the Secretary of Energy; and

"(ii) the Interstate Oil and Gas Compact Commission.

"(c) FUNDING FOR STATE PROGRAMS.—

"(1) IN GENERAL.—The Secretary shall provide to States, in accordance with this subsection—

"(A) initial grants under paragraph (3);

"(B) formula grants under paragraph (4); and

"(C) performance grants under paragraph (5).

"(2) ACTIVITIES.—

"(A) IN GENERAL.—A State may use funding provided under this subsection for any of the following purposes:

"(i) To plug, remediate, and reclaim orphaned wells located on State-owned or privately owned land.

"(ii) To identify and characterize undocumented orphaned wells on State and private land.

"(iii) To rank orphaned wells based on factors including—

"(I) public health and safety;

"(II) potential environmental harm; and

"(III) other land use priorities.

"(iv) To make information regarding the use of funds received under this subsection available on a public website.

"(v) To measure and track—

"(I) emissions of methane and other gases associated with orphaned wells; and

"(II) contamination of groundwater or surface water associated with orphaned wells.

"(vi) To remediate soil and restore native species habitat that has been degraded due to the presence of orphaned wells and associated pipelines, facilities, and infrastructure.

"(vii) To remediate land adjacent to orphaned wells and decommission or remove associated pipelines, facilities, and infrastructure.

"(viii) To identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on communities of color, low-

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income communities, and Tribal and indigenous communities.

"(ix) Subject to subparagraph (B), to administer a program to carry out any activities described in clauses (i) through (viii).

"(B) ADMINISTRATIVE COST LIMITATION.—

"(i) IN GENERAL.—Except as provided in clause (ii), a State shall not use more than 10 percent of the funds received under this subsection during a fiscal year for administrative costs under subparagraph (A)(ix).

"(ii) EXCEPTION.—The limitation under clause (i) shall not apply to funds used by a State as described in paragraph (3)(A)(ii).

"(3) INITIAL GRANTS.—

"(A) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall distribute—

"(i) not more than $25,000,000 to each State that submits to the Secretary, by not later than 180 days after the date of enactment of the Infrastructure Investment and Jobs Act, a request for funding under this clause, including—

"(I) an estimate of the number of jobs that will be created or saved through the activities proposed to be funded; and

"(II) a certification that—

"(aa) the State is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission;

"(bb) there are 1 or more documented orphaned wells located in the State; and

"(cc) the State will use not less than 90 percent of the funding requested under this subsection to issue new contracts, amend existing contracts, or issue grants for plugging, remediation, and reclamation work by not later than 90 days after the date of receipt of the funds; and

"(ii) not more than $5,000,000 to each State that—

"(I) requests funding under this clause;

"(II) does not receive a grant under clause (i); and

"(III) certifies to the Secretary that—

"(aa) the State—

"(AA) has in effect a plugging, remediation, and reclamation program for orphaned wells; or

"(BB) the capacity to initiate such a program; or

"(bb) the funds provided under this paragraph will be used to carry out any administrative actions necessary to develop an application for a formula grant under paragraph (4) or a performance grant under paragraph (5).

"(B) DISTRIBUTION.—Subject to the availability of appropriations, the Secretary shall distribute funds to a State under this paragraph by not later than the date

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that is 30 days after the date on which the State submits to the Secretary the certification required under clause (i)(II) or (ii)(III) of subparagraph (A), as applicable.

"(C) DEADLINE FOR EXPENDITURE.—A State that receives funds under this paragraph shall reimburse the Secretary in an amount equal to the amount of the funds that remain unobligated on the date that is 1 year after the date of receipt of the funds.

"(D) REPORT.—Not later than 15 months after the date on which a State receives funds under this paragraph, the State shall submit to the Secretary a report that describes the means by which the State used the funds in accordance with the certification submitted by the State under subparagraph (A).

"(4) FORMULA GRANTS.—

"(A) ESTABLISHMENT.—

"(i) IN GENERAL.—The Secretary shall establish a formula for the distribution to each State described in clause (ii) of funds under this paragraph.

"(ii) DESCRIPTION OF STATES.—A State referred to in clause (i) is a State that, by not later than 45 days after the date of enactment of the Infrastructure Investment and Jobs Act, submits to the Secretary a notice of the intent of the State to submit an application under subparagraph (B), including a description of the factors described in clause (iii) with respect to the State.

"(iii) FACTORS.—The formula established under clause (i) shall account for, with respect to an applicant State, the following factors:

"(I) Job losses in the oil and gas industry in the State during the period—

"(aa) beginning on March 1, 2020; and

"(bb) ending on the date of enactment of the Infrastructure Investment and Jobs Act.

"(II) The number of documented orphaned wells located in the State, and the projected cost—

"(aa) to plug or reclaim those orphaned wells;

"(bb) to reclaim adjacent land; and

"(cc) to decommission or remove associated pipelines, facilities, and infrastructure.

"(iv) PUBLICATION.—Not later than 75 days after the date of enactment of the Infrastructure Investment and Jobs Act, the Secretary shall publish on a public website the amount that each State is eligible to receive under the formula under this subparagraph.

"(B) APPLICATION.—To be eligible to receive a formula grant under this paragraph, a State shall submit to the Secretary an application that includes—

"(i) a description of—

"(I) the State program for orphaned well plugging, remediation, and restoration, including legal authorities, processes used to identify and prioritize orphaned wells, procurement mechanisms, and other program elements demonstrating

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the readiness of the State to carry out proposed activities using the grant;

"(II) the activities to be carried out with the grant, including an identification of the estimated health, safety, habitat, and environmental benefits of plugging, remediating, or reclaiming orphaned wells; and

"(III) the means by which the information regarding the activities of the State under this paragraph will be made available on a public website;

"(ii) an estimate of—

"(I) the number of orphaned wells in the State that will be plugged, remediated, or reclaimed;

"(II) the projected cost of—

"(aa) plugging, remediating, or reclaiming orphaned wells;

"(bb) remediating or reclaiming adjacent land; and

"(cc) decommissioning or removing associated pipelines, facilities, and infrastructure;

"(III) the amount of that projected cost that will be offset by the forfeiture of financial assurance instruments, the estimated salvage of well site equipment, or other proceeds from the orphaned wells and adjacent land;

"(IV) the number of jobs that will be created or saved through the activities to be funded under this paragraph; and

"(V) the amount of funds to be spent on administrative costs;

"(iii) a certification that any financial assurance instruments available to cover plugging, remediation, or reclamation costs will be used by the State; and

"(iv) the definitions and processes used by the State to formally identify a well as—

"(I) an orphaned well; or

"(II) if the State uses different terminology, otherwise eligible for plugging, remediation, and reclamation by the State.

"(C) DISTRIBUTION.—Subject to the availability of appropriations, the Secretary shall distribute funds to a State under this paragraph by not later than the date that is 60 days after the date on which the State submits to the Secretary a completed application under subparagraph (B).

"(D) DEADLINE FOR EXPENDITURE.—A State that receives funds under this paragraph shall reimburse the Secretary in an amount equal to the amount of the funds that remain unobligated on the date that is 5 years after the date of receipt of the funds.

"(E) CONSULTATION.—In making a determination under this paragraph regarding the eligibility of a State to receive a formula grant, the Secretary shall consult with—

"(i) the Administrator of the Environmental Protection Agency;

"(ii) the Secretary of Energy; and

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"(iii) the Interstate Oil and Gas Compact Commission.

"(5) PERFORMANCE GRANTS.—

"(A) ESTABLISHMENT.—The Secretary shall provide to States, in accordance with this paragraph—

"(i) regulatory improvement grants under subparagraph (E); and

"(ii) matching grants under subparagraph (F).

"(B) APPLICATION.—To be eligible to receive a grant under this paragraph, a State shall submit to the Secretary an application including—

"(i) each element described in an application for a grant under paragraph (4)(B);

"(ii) activities carried out by the State to address orphaned wells located in the State, including—

"(I) increasing State spending on well plugging, remediation, and reclamation; or

"(II) improving regulation of oil and gas wells; and

"(iii) the means by which the State will use funds provided under this paragraph—

"(I) to lower unemployment in the State; and

"(II) to improve economic conditions in economically distressed areas of the State.

"(C) DISTRIBUTION.—Subject to the availability of appropriations, the Secretary shall distribute funds to a State under this paragraph by not later than the date that is 60 days after the date on which the State submits to the Secretary a completed application under subparagraph (B).

"(D) CONSULTATION.—In making a determination under this paragraph regarding the eligibility of a State to receive a grant under subparagraph (E) or (F), the Secretary shall consult with—

"(i) the Administrator of the Environmental Protection Agency;

"(ii) the Secretary of Energy; and

"(iii) the Interstate Oil and Gas Compact Commission.

"(E) REGULATORY IMPROVEMENT GRANTS.—

"(i) IN GENERAL.—Beginning on the date that is 180 days after the date on which an initial grant is provided to a State under paragraph (3), the Secretary shall, subject to the availability of appropriations, provide to the State a regulatory improvement grant under this subparagraph, if the State meets, during the 10-year period ending on the date on which the State submits to the Secretary an application under subparagraph (B), 1 of the following criteria:

"(I) The State has strengthened plugging standards and procedures designed to ensure that wells located in the State are plugged in an effective manner that protects groundwater and other natural resources, public health and safety, and the environment.

"(II) The State has made improvements to State programs designed to reduce future

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orphaned well burdens, such as financial assurance reform, alternative funding mechanisms for orphaned well programs, and reforms to programs relating to well transfer or temporary abandonment.

"(ii) LIMITATIONS.—

"(I) NUMBER.—The Secretary may issue to a State under this subparagraph not more than 1 grant for each criterion described in subclause (I) or (II) of clause (i).

"(II) MAXIMUM AMOUNT.—The amount of a single grant provided to a State under this subparagraph shall be not more than $20,000,000.

"(iii) REIMBURSEMENT FOR FAILURE TO MAINTAIN PROTECTIONS.—A State that receives a grant under this subparagraph shall reimburse the Secretary in an amount equal to the amount of the grant in any case in which, during the 10-year period beginning on the date of receipt of the grant, the State enacts a law or regulation that, if in effect on the date of submission of the application under subparagraph (B), would have prevented the State from being eligible to receive the grant under clause (i).

"(F) MATCHING GRANTS.—

"(i) IN GENERAL.—Beginning on the date that is 180 days after the date on which an initial grant is provided to a State under paragraph (3), the Secretary shall, subject to the availability of appropriations, provide to the State funding, in an amount equal to the difference between—

"(I) the average annual amount expended by the State during the period of fiscal years 2010 through 2019—

"(aa) to plug, remediate, and reclaim orphaned wells; and

"(bb) to decommission or remove associated pipelines, facilities, or infrastructure; and

"(II) the amount that the State certifies to the Secretary the State will expend, during the fiscal year in which the State will receive the grant under this subparagraph—

"(aa) to plug, remediate, and reclaim orphaned wells;

"(bb) to remediate or reclaim adjacent land; and

"(cc) to decommission or remove associated pipelines, facilities, and infrastructure.

"(ii) LIMITATIONS.—

"(I) FISCAL YEAR.—The Secretary may issue to a State under this subparagraph not more than 1 grant for each fiscal year.

"(II) TOTAL FUNDS PROVIDED.—The Secretary may provide to a State under this subparagraph a total amount equal to not more than $30,000,000 during the period of fiscal years 2022 through 2031.

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"(d) TRIBAL ORPHANED WELL SITE PLUGGING, REMEDIATION, AND RESTORATION.—

"(1) ESTABLISHMENT.—The Secretary shall establish a program under which the Secretary shall—

"(A) provide to Indian Tribes grants in accordance with this subsection; or

"(B) on request of an Indian Tribe and in lieu of a grant under subparagraph (A), administer and carry out plugging, remediation, and reclamation activities in accordance with paragraph (7).

"(2) ELIGIBLE ACTIVITIES.—

"(A) IN GENERAL.—An Indian Tribe may use a grant received under this subsection—

"(i) to plug, remediate, or reclaim an orphaned well on Tribal land;

"(ii) to remediate soil and restore native species habitat that has been degraded due to the presence of an orphaned well or associated pipelines, facilities, or infrastructure on Tribal land;

"(iii) to remediate Tribal land adjacent to orphaned wells and decommission or remove associated pipelines, facilities, and infrastructure;

"(iv) to provide an online public accounting of the cost of plugging, remediation, and reclamation for each orphaned well site on Tribal land;

"(v) to identify and characterize undocumented orphaned wells on Tribal land; and

"(vi) to develop or administer a Tribal program to carry out any activities described in clauses (i) through (v).

"(B) ADMINISTRATIVE COST LIMITATION.—

"(i) IN GENERAL.—Except as provided in clause (ii), an Indian Tribe shall not use more than 10 percent of the funds received under this subsection during a fiscal year for administrative costs under subparagraph (A)(vi).

"(ii) EXCEPTION.—The limitation under clause (i) shall not apply to any funds used to carry out an administrative action necessary for the development of a Tribal program described in subparagraph (A)(vi).

"(3) FACTORS FOR CONSIDERATION.—In determining whether to provide to an Indian Tribe a grant under this subsection, the Secretary shall take into consideration—

"(A) the unemployment rate of the Indian Tribe on the date on which the Indian Tribe submits an application under paragraph (4); and

"(B) the estimated number of orphaned wells on the Tribal land of the Indian Tribe.

"(4) APPLICATION.—To be eligible to receive a grant under this subsection, an Indian Tribe shall submit to the Secretary an application that includes—

"(A) a description of—

"(i) the Tribal program for orphaned well plugging, remediation, and restoration, including legal authorities, processes used to identify and prioritize orphaned wells, procurement mechanisms, and other program elements demonstrating the readiness of the Indian

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Tribe to carry out the proposed activities, or plans to develop such a program; and

"(ii) the activities to be carried out with the grant, including an identification of the estimated health, safety, habitat, and environmental benefits of plugging, remediating, or reclaiming orphaned wells and remediating or reclaiming adjacent land; and

"(B) an estimate of—

"(i) the number of orphaned wells that will be plugged, remediated, or reclaimed; and

"(ii) the projected cost of—

"(I) plugging, remediating, or reclaiming orphaned wells;

"(II) remediating or reclaiming adjacent land; and

"(III) decommissioning or removing associated pipelines, facilities, and infrastructure.

"(5) DISTRIBUTION.—Subject to the availability of appropriations, the Secretary shall distribute funds to an Indian Tribe under this subsection by not later than the date that is 60 days after the date on which the Indian Tribe submits to the Secretary a completed application under paragraph (4).

"(6) DEADLINE FOR EXPENDITURE.—An Indian Tribe that receives funds under this subsection shall reimburse the Secretary in an amount equal to the amount of the funds that remain unobligated on the date that is 5 years after the date of receipt of the funds, except for cases in which the Secretary has granted the Indian Tribe an extended deadline for completion of the eligible activities after consultation.

"(7) DELEGATION TO SECRETARY IN LIEU OF A GRANT.—

"(A) IN GENERAL.—In lieu of a grant under this subsection, an Indian Tribe may submit to the Secretary a request for the Secretary to administer and carry out plugging, remediation, and reclamation activities relating to an orphaned well on behalf of the Indian Tribe.

"(B) ADMINISTRATION.—Subject to the availability of appropriations under subsection (h)(1)(E), on submission of a request under subparagraph (A), the Secretary shall administer or carry out plugging, remediation, and reclamation activities for an orphaned well on Tribal land.

"(e) TECHNICAL ASSISTANCE.—The Secretary of Energy, in cooperation with the Secretary and the Interstate Oil and Gas Compact Commission, shall provide technical assistance to the Federal land management agencies and oil and gas producing States and Indian Tribes to support practical and economical remedies for environmental problems caused by orphaned wells on Federal land, Tribal land, and State and private land, including the sharing of best practices in the management of oil and gas well inventories to ensure the availability of funds to plug, remediate, and restore oil and gas well sites on cessation of operation.

"(f) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of the Infrastructure Investment and Jobs Act, and not less frequently than annually thereafter, the Secretary shall submit to the Committees on Appropriations and Energy and Natural Resources of the Senate and the Committees on Appropriations and Natural Resources of the House of Representatives

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a report describing the program established and grants awarded under this section, including—

"(1) an updated inventory of wells located on Federal land, Tribal land, and State and private land that are—

"(A) orphaned wells; or

"(B) at risk of becoming orphaned wells;

"(2) an estimate of the quantities of—

"(A) methane and other gasses emitted from orphaned wells; and

"(B) emissions reduced as a result of plugging, remediating, and reclaiming orphaned wells;

"(3) the number of jobs created and saved through the plugging, remediation, and reclamation of orphaned wells; and

"(4) the acreage of habitat restored using grants awarded to plug, remediate, and reclaim orphaned wells and to remediate or reclaim adjacent land, together with a description of the purposes for which that land is likely to be used in the future.

"(g) EFFECT OF SECTION.—

"(1) NO EXPANSION OF LIABILITY.—Nothing in this section establishes or expands the responsibility or liability of any entity with respect to—

"(A) plugging any well; or

"(B) remediating or reclaiming any well site.

"(2) TRIBAL LAND.—Nothing in this section—

"(A) relieves the Secretary of any obligation under section 3 of the Act of May 11, 1938 (25 U.S.C. 396c; 52 Stat. 348, chapter 198), to plug, remediate, or reclaim an orphaned well located on Tribal land; or

"(B) absolves the United States from a responsibility to plug, remediate, or reclaim an orphaned well located on Tribal land or any other responsibility to an Indian Tribe, including any responsibility that derives from—

"(i) the trust relationship between the United States and Indian Tribes;

"(ii) any treaty, law, or Executive order; or

"(iii) any agreement between the United States and an Indian Tribe.

"(3) OWNER OR OPERATOR NOT ABSOLVED.—Nothing in this section absolves the owner or operator of an oil or gas well of any potential liability for—

"(A) reimbursement of any plugging or reclamation costs associated with the well; or

"(B) any adverse effect of the well on the environment.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 2022, to remain available until September 30, 2030:

"(1) to the Secretary—

"(A) $250,000,000 to carry out the program under subsection (b);

"(B) $775,000,000 to provide grants under subsection (c)(3);

"(C) $2,000,000,000 to provide grants under subsection (c)(4);

"(D) $1,500,000,000 to provide grants under subsection (c)(5); and

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"(E) $150,000,000 to carry out the program under subsection (d);

"(2) to the Secretary of Energy, $30,000,000 to conduct research and development activities in cooperation with the Interstate Oil and Gas Compact Commission to assist the Federal land management agencies, States, and Indian Tribes in—

"(A) identifying and characterizing undocumented orphaned wells; and

"(B) mitigating the environmental risks of undocumented orphaned wells; and

"(3) to the Interstate Oil and Gas Compact Commission, $2,000,000 to carry out this section.".

TITLE VII—ABANDONED MINE LAND RECLAMATION

SEC. 40701. ABANDONED MINE RECLAMATION FUND AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated, for deposit into the Abandoned Mine Reclamation Fund established by section 401(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231(a)) $11,293,000,000 for fiscal year 2022, to remain available until expended.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Subject to subsection (g), amounts made available under subsection (a) shall be used to provide, as expeditiously as practicable, to States and Indian Tribes described in paragraph (2) annual grants for abandoned mine land and water reclamation projects under the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.).

(2) ELIGIBLE GRANT RECIPIENTS.—Grants may be made under paragraph (1) to—

(A) States and Indian Tribes that have a State or Tribal program approved under section 405 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1235);

(B) States and Indian Tribes that are certified under section 411(a) of that Act (30 U.S.C. 1240a(a)); and

(C) States and Indian Tribes that are referred to in section 402(g)(8)(B) of that Act (30 U.S.C. 1232(g)(8)(B)).

(3) CONTRACT AGGREGATION.—In applying for grants under paragraph (1), States and Indian Tribes may aggregate bids into larger statewide or regional contracts.

(c) COVERED ACTIVITIES.—Grants under subsection (b)(1) shall only be used for activities described in subsections (a) and (b) of section 403 and section 410 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1233, 1240).

(d) ALLOCATION.—

(1) IN GENERAL.—Subject to subsection (e), the Secretary of the Interior shall allocate and distribute amounts made available for grants under subsection (b)(1) to States and Indian Tribes on an equal annual basis over a 15-year period beginning on the date of enactment of this Act, based on the number of tons of coal historically produced in the States or from the applicable Indian land before August 3, 1977, regardless of whether the State or Indian Tribe is certified under section

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411(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1240a(a)).

(2) SURFACE MINING CONTROL AND RECLAMATION ACT EXCEPTION.—Section 401(f)(3)(B) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231(f)(3)(B)) shall not apply to grant funds distributed under subsection (b)(1).

(3) REPORT TO CONGRESS ON ALLOCATIONS.—

(A) IN GENERAL.—Not later than 6 years after the date on which the first allocation to States and Indian Tribes is made under paragraph (1), the Secretary of the Interior shall submit to Congress a report that describes any progress made under this section in addressing outstanding reclamation needs under subsection (a) or (b) of section 403 or section 410 of the Surface Mining Control and Reclamation and Act of 1977 (30 U.S.C. 1233, 1240).

(B) INPUT.—The Secretary of the Interior shall—

(i) prior to submitting the report under subparagraph (A), solicit the input of the States and Indian Tribes regarding the progress referred to in that subparagraph; and

(ii) include in the report submitted to Congress under that subparagraph a description of any input received under clause (i).

(4) REDISTRIBUTION OF FUNDS.—

(A) EVALUATION.—Not later than 20 years after the date of enactment of this Act, the Secretary of the Interior shall evaluate grant payments to States and Indian Tribes made under this section.

(B) UNUSED FUNDS.—On completion of the evaluation under subparagraph (A), States and Indian Tribes shall return any unused funds under this section to the Abandoned Mine Reclamation Fund.

(e) TOTAL AMOUNT OF GRANT.—The total amount of grant funding provided under subsection (b)(1) to an eligible State or Indian Tribe shall be not less than $20,000,000, to the extent that the amount needed for reclamation projects described in that subsection on the land of the State or Indian Tribe is not less than $20,000,000.

(f) PRIORITY.—In addition to the priorities described in section 403(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1233(a)), in providing grants under this section, priority may also be given to reclamation projects described in subsection (b)(1) that provide employment for current and former employees of the coal industry.

(g) RESERVATION.—Of the funds made available under subsection (a), $25,000,000 shall be made available to the Secretary of the Interior to provide States and Indian Tribes with the financial and technical assistance necessary for the purpose of making amendments to the inventory maintained under section 403(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1233(c)).

SEC. 40702. ABANDONED MINE RECLAMATION FEE.

(a) AMOUNT.—Section 402(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(a)) is amended—

(1) by striking "28 cents" and inserting "22.4 cents";

(2) by striking "12 cents" and inserting "9.6 cents"; and

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(3) by striking "8 cents" and inserting "6.4 cents".

(b) DURATION.—Section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) is amended by striking "September 30, 2021" and inserting "September 30, 2034".

SEC. 40703. AMOUNTS DISTRIBUTED FROM ABANDONED MINE RECLAMATION FUND.

Section 401(f)(2) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231(f)(2)) is amended—

(1) in subparagraph (A)—

(A) in the subparagraph heading, by striking "2022" and inserting "2035"; and

(B) in the matter preceding clause (i), by striking "2022" and inserting "2035"; and

(2) in subparagraph (B)—

(A) in the subparagraph heading, by striking "2023" and inserting "2036";

(B) by striking "2023" and inserting "2036"; and

(C) by striking "2022" and inserting "2035".

SEC. 40704. ABANDONED HARDROCK MINE RECLAMATION.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior (referred to in this section as the "Secretary") shall establish a program to inventory, assess, decommission, reclaim, respond to hazardous substance releases on, and remediate abandoned hardrock mine land based on conditions including need, public health and safety, potential environmental harm, and other land use priorities.

(b) AWARD OF GRANTS.—Subject to the availability of funds, the Secretary shall provide grants on a competitive or formula basis to States and Indian Tribes that have jurisdiction over abandoned hardrock mine land to reclaim that land.

(c) ELIGIBILITY.—Amounts made available under this section may only be used for Federal, State, Tribal, local, and private land that has been affected by past hardrock mining activities, and water resources that traverse or are contiguous to such land, including any of the following:

(1) Land and water resources that were—

(A) used for, or affected by, hardrock mining activities; and

(B) abandoned or left in an inadequate reclamation status before the date of enactment of this Act.

(2) Land for which the Secretary makes a determination that there is no continuing reclamation responsibility of a claim holder, liable party, operator, or other person that abandoned the site prior to completion of required reclamation under Federal or State law.

(d) ELIGIBLE ACTIVITIES.—

(1) IN GENERAL.—Amounts made available to carry out this section shall be used to inventory, assess, decommission, reclaim, respond to hazardous substance releases on, and remediate abandoned hardrock mine land based on the priorities described in subsection (a).

(2) EXCLUSION.—Amounts made available to carry out this section may not be used to fulfill obligations under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) agreed to in

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a legal settlement or imposed by a court, whether for payment of funds or for work to be performed.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $3,000,000,000, to remain available until expended, of which—

(A) 50 percent shall be for grants to States and Indian Tribes under subsection (b) for eligible activities described in subsection (d)(1); and

(B) 50 percent shall be for available to the Secretary for eligible activities described in subsection (d)(1) on Federal land.

(2) TRANSFER.—The Secretary may transfer amounts made available to the Secretary under paragraph (1)(B) to the Secretary of Agriculture for activities described in subsection (a) on National Forest System land.

TITLE VIII—NATURAL RESOURCES-RELATED INFRASTRUCTURE, WILDFIRE MANAGEMENT, AND ECOSYSTEM RESTORATION

SEC. 40801. FOREST SERVICE LEGACY ROAD AND TRAIL REMEDIATION PROGRAM.

(a) ESTABLISHMENT.—Public Law 88–657 (16 U.S.C. 532 et seq.) (commonly known as the "Forest Roads and Trails Act") is amended by adding at the end the following:

"SEC. 8. FOREST SERVICE LEGACY ROAD AND TRAIL REMEDIATION PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish the Forest Service Legacy Road and Trail Remediation Program (referred to in this section as the 'Program').

"(b) ACTIVITIES.—In carrying out the Program, the Secretary shall, taking into account foreseeable changes in weather and hydrology—

"(1) restore passages for fish and other aquatic species by—

"(A) improving, repairing, or replacing culverts and other infrastructure; and

"(B) removing barriers, as the Secretary determines appropriate, from the passages;

"(2) decommission unauthorized user-created roads and trails that are not a National Forest System road or a National Forest System trail, if the applicable unit of the National Forest System has published—

"(A) a Motor Vehicle Use Map and the road is not identified as a National Forest System road on that Motor Vehicle Use Map; or

"(B) a map depicting the authorized trails in the applicable unit of the National Forest System and the trail is not identified as a National Forest System trail on that map;

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"(3) prepare previously closed National Forest System roads for long-term storage, in accordance with subsections (c)(1) and (d), in a manner that—

"(A) prevents motor vehicle use, as appropriate to conform to route designations;

"(B) prevents the roads from damaging adjacent resources, including aquatic and wildlife resources;

"(C) reduces or eliminates the need for road maintenance; and

"(D) preserves the roads for future use;

"(4) decommission previously closed National Forest System roads and trails in accordance with subsections (c)(1) and (d);

"(5) relocate National Forest System roads and trails—

"(A) to increase resilience to extreme weather events, flooding, and other natural disasters; and

"(B) to respond to changing resource conditions and public input;

"(6) convert National Forest System roads to National Forest System trails, while allowing for continued use for motorized and nonmotorized recreation, to the extent the use is compatible with the management status of the road or trail;

"(7) decommission temporary roads—

"(A) that were constructed before the date of enactment of this section—

"(i) for emergency operations; or

"(ii) to facilitate a resource extraction project;

"(B) that were designated as a temporary road by the Secretary; and

"(C)(i) in violation of section 10(b) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1608(b)), on which vegetation cover has not been reestablished; or

"(ii) that have not been fully decommissioned; and

"(8) carry out projects on National Forest System roads, trails, and bridges to improve resilience to extreme weather events, flooding, or other natural disasters.

"(c) PROJECT SELECTION.—

"(1) PROJECT ELIGIBILITY.—

"(A) IN GENERAL.—The Secretary may only fund under the Program a project described in paragraph (3) or (4) of subsection (b) if the Secretary previously and separately—

"(i) solicited public comment for changing the management status of the applicable National Forest System road or trail—

"(I) to close the road or trail to access; and

"(II) to minimize impacts to natural resources; and

"(ii) has closed the road or trail to access as described in clause (i)(I).

"(B) REQUIREMENT.—Each project carried out under the Program shall be on a National Forest System road or trail, except with respect to—

"(i) a project described in subsection (b)(2); or

"(ii) a project carried out on a watershed for which the Secretary has entered into a cooperative agreement under section 323 of the Department of the Interior

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and Related Agencies Appropriations Act, 1999 (16 U.S.C. 1011a).

"(2) ANNUAL SELECTION OF PROJECTS FOR FUNDING.—The Secretary shall—

"(A) establish a process for annually selecting projects for funding under the Program, consistent with the requirements of this section;

"(B) solicit and consider public input regionally in the ranking of projects for funding under the Program;

"(C) give priority for funding under the Program to projects that would—

"(i) protect or improve water quality in public drinking water source areas;

"(ii) restore the habitat of a threatened, endangered, or sensitive fish or wildlife species; or

"(iii) maintain future access to the adjacent area for the public, contractors, permittees, or firefighters; and

"(D) publish on the website of the Forest Service—

"(i) the selection process established under subparagraph (A); and

"(ii) a list that includes a description and the proposed outcome of each project funded under the Program in each fiscal year.

"(d) IMPLEMENTATION.—In implementing the Program, the Secretary shall ensure that—

"(1) the system of roads and trails on the applicable unit of the National Forest System—

"(A) is adequate to meet any increasing demands for timber, recreation, and other uses;

"(B) provides for intensive use, protection, development, and management of the land under principles of multiple use and sustained yield of products and services;

"(C) does not damage, degrade, or impair adjacent resources, including aquatic and wildlife resources, to the extent practicable;

"(D) reflects long-term funding expectations; and

"(E) is adequate for supporting emergency operations, such as evacuation routes during wildfires, floods, and other natural disasters; and

"(2) all projects funded under the Program are consistent with any applicable forest plan or travel management plan.

"(e) SAVINGS CLAUSE.—A decision to fund a project under the Program shall not affect any determination made previously or to be made in the future by the Secretary with regard to road or trail closures.".

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Agriculture to carry out section 8 of Public Law 88–657 (commonly known as the "Forest Roads and Trails Act") $250,000,000 for the period of fiscal years 2022 through 2026.

SEC. 40802. STUDY AND REPORT ON FEASIBILITY OF REVEGETATING RECLAIMED MINE SITES.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior, acting through the Director of the Office of Surface Mining Reclamation and

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Enforcement, shall conduct, and submit to Congress a report describing the results of, a study on the feasibility of revegetating reclaimed mined sites.

(b) INCLUSIONS.—The report submitted under subsection (a) shall include—

(1) recommendations for how a program could be implemented through the Office of Surface Mining Reclamation and Enforcement to revegetate reclaimed mined sites;

(2) identifications of reclaimed mine sites that would be suitable for inclusion in such a program, including sites on land that—

(A) is subject to title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 et seq.); and

(B) is not subject to that title;

(3) a description of any barriers to implementation of such a program, including whether the program would potentially interfere with the authorities contained in, or the implementation of, the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.), including the Abandoned Mine Reclamation Fund created by section 401 of that Act (30 U.S.C. 1231) and State reclamation programs under section 405 of that Act (30 U.S.C. 1235); and

(4) a description of the potential for job creation and workforce needs if such a program was implemented.

SEC. 40803. WILDFIRE RISK REDUCTION.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Interior and the Secretary of Agriculture, acting through the Chief of the Forest Service, for the activities described in subsection (c), $3,369,200,000 for the period of fiscal years 2022 through 2026.

(b) TREATMENT.—Of the Federal land or Indian forest land or rangeland that has been identified as having a very high wildfire hazard potential, the Secretary of the Interior and the Secretary of Agriculture, acting through the Chief of the Forest Service, shall, by not later than September 30, 2027, conduct restoration treatments and improve the Fire Regime Condition Class of 10,000,000 acres that are located in—

(1) the wildland-urban interface; or

(2) a public drinking water source area.

(c) ACTIVITIES.—Of the amounts made available under subsection (a) for the period of fiscal years 2022 through 2026—

(1) $20,000,000 shall be made available for entering into an agreement with the Administrator of the National Oceanic and Atmospheric Administration to establish and operate a program that makes use of the Geostationary Operational Environmental Satellite Program to rapidly detect and report wildfire starts in all areas in which the Secretary of the Interior or the Secretary of Agriculture has financial responsibility for wildland fire protection and prevention, of which—

(A) $10,000,000 shall be made available to the Secretary of the Interior; and

(B) $10,000,000 shall be made available to the Secretary of Agriculture;

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(2) $600,000,000 shall be made available for the salaries and expenses of Federal wildland firefighters in accordance with subsection (d), of which—

(A) $120,000,000 shall be made available to the Secretary of the Interior; and

(B) $480,000,000 shall be made available to the Secretary of Agriculture;

(3) $10,000,000 shall be made available to the Secretary of the Interior to acquire technology and infrastructure for each Type I and Type II incident management team to maintain interoperability with respect to the radio frequencies used by any responding agency;

(4) $30,000,000 shall be made available to the Secretary of Agriculture to provide financial assistance to States, Indian Tribes, and units of local government to establish and operate Reverse-911 telecommunication systems;

(5) $50,000,000 shall be made available to the Secretary of the Interior to establish and implement a pilot program to provide to local governments financial assistance for the acquisition of slip-on tanker units to establish fleets of vehicles that can be quickly converted to be operated as fire engines;

(6) $1,200,000 shall be made available to the Secretary of Agriculture, in coordination with the Secretary of the Interior, to develop and publish, not later than 180 days after the date of enactment of this Act, and every 5 years thereafter, a map depicting at-risk communities (as defined in section 101 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6511)), including Tribal at-risk communities;

(7) $100,000,000 shall be made available to the Secretary of the Interior and the Secretary of Agriculture—

(A) for—

(i) preplanning fire response workshops that develop—

(I) potential operational delineations; and

(II) select potential control locations; and

(ii) workforce training for staff, non-Federal firefighters, and Native village fire crews for—

(I) wildland firefighting; and

(II) increasing the pace and scale of vegetation treatments, including training on how to prepare and implement large landscape treatments; and

(B) of which—

(i) $50,000,000 shall be made available to the Secretary of the Interior; and

(ii) $50,000,000 shall be made available to the Secretary of Agriculture;

(8) $20,000,000 shall be made available to the Secretary of Agriculture to enter into an agreement with a Southwest Ecological Restoration Institute established under the Southwest Forest Health and Wildfire Prevention Act of 2004 (16 U.S.C. 6701 et seq.)—

(A) to compile and display existing data, including geographic data, for hazardous fuel reduction or wildfire prevention treatments undertaken by the Secretary of the Interior or the Secretary of Agriculture, including treatments undertaken with funding provided under this title;

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(B) to compile and display existing data, including geographic data, for large wildfires, as defined by the National Wildfire Coordinating Group, that occur in the United States;

(C) to facilitate coordination and use of existing and future interagency fuel treatment data, including geographic data, for the purposes of—

(i) assessing and planning cross-boundary fuel treatments; and

(ii) monitoring the effects of treatments on wildfire outcomes and ecosystem restoration services, using the data compiled under subparagraphs (A) and (B);

(D) to publish a report every 5 years showing the extent to which treatments described in subparagraph (A) and previous wildfires affect the boundaries of wildfires, categorized by—

(i) Federal land management agency;

(ii) region of the United States; and

(iii) treatment type; and

(E) to carry out other related activities of a Southwest Ecological Restoration Institute, as authorized by the Southwest Forest Health and Wildfire Prevention Act of 2004 (16 U.S.C. 6701 et seq.);

(9) $20,000,000 shall be available for activities conducted under the Joint Fire Science Program, of which—

(A) $10,000,000 shall be made available to the Secretary of the Interior; and

(B) $10,000,000 shall be made available to the Secretary of Agriculture;

(10) $100,000,000 shall be made available to the Secretary of Agriculture for collaboration and collaboration-based activities, including facilitation, certification of collaboratives, and planning and implementing projects under the Collaborative Forest Landscape Restoration Program established under section 4003 of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 7303) in accordance with subsection (e);

(11) $500,000,000 shall be made available to the Secretary of the Interior and the Secretary of Agriculture—

(A) for—

(i) conducting mechanical thinning and timber harvesting in an ecologically appropriate manner that maximizes the retention of large trees, as appropriate for the forest type, to the extent that the trees promote fire-resilient stands; or

(ii) precommercial thinning in young growth stands for wildlife habitat benefits to provide subsistence resources; and

(B) of which—

(i) $100,000,000 shall be made available to the Secretary of the Interior; and

(ii) $400,000,000 shall be made available to the Secretary of Agriculture;

(12) $500,000,000 shall be made available to the Secretary of Agriculture, in cooperation with States, to award community wildfire defense grants to at-risk communities in accordance with subsection (f);

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(13) $500,000,000 shall be made available for planning and conducting prescribed fires and related activities, of which—

(A) $250,000,000 shall be made available to the Secretary of the Interior; and

(B) $250,000,000 shall be made available to the Secretary of Agriculture;

(14) $500,000,000 shall be made available for developing or improving potential control locations, in accordance with paragraph (7)(A)(i)(II), including installing fuelbreaks (including fuelbreaks studied under subsection (i)), with a focus on shaded fuelbreaks when ecologically appropriate, of which—

(A) $250,000,000 shall be made available to the Secretary of the Interior; and

(B) $250,000,000 shall be made available to the Secretary of Agriculture;

(15) $200,000,000 shall be made available for contracting or employing crews of laborers to modify and remove flammable vegetation on Federal land and for using materials from treatments, to the extent practicable, to produce biochar and other innovative wood products, including through the use of existing locally based organizations that engage young adults, Native youth, and veterans in service projects, such as youth and conservation corps, of which—

(A) $100,000,000 shall be made available to the Secretary of the Interior; and

(B) $100,000,000 shall be made available to the Secretary of Agriculture;

(16) $200,000,000 shall be made available for post-fire restoration activities that are implemented not later than 3 years after the date that a wildland fire is contained, of which—

(A) $100,000,000 shall be made available to the Secretary of the Interior; and

(B) $100,000,000 shall be made available to the Secretary of Agriculture;

(17) $8,000,000 shall be made available to the Secretary of Agriculture—

(A) to provide feedstock to firewood banks; and

(B) to provide financial assistance for the operation of firewood banks; and

(18) $10,000,000 shall be available to the Secretary of the Interior and the Secretary of Agriculture for the procurement and placement of wildfire detection and real-time monitoring equipment, such as sensors, cameras, and other relevant equipment, in areas at risk of wildfire or post-burned areas.

(d) WILDLAND FIREFIGHTERS.—

(1) IN GENERAL.—Subject to the availability of appropriations, not later than 180 days after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall, using the amounts made available under subsection (c)(2), coordinate with the Director of the Office of Personnel Management to develop a distinct "wildland firefighter" occupational series.

(2) HAZARDOUS DUTY DIFFERENTIAL NOT AFFECTED.—Section 5545(d)(1) of title 5, United States Code, is amended by striking "except" and all that follows through "and" at the end and inserting the following: "except—

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"(A) an employee in an occupational series covering positions for which the primary duties involve the prevention, control, suppression, or management of wildland fires, as determined by the Office; and

"(B) in such other circumstances as the Office may by regulation prescribe; and".

(3) CURRENT EMPLOYEES.—Any individual employed as a wildland firefighter on the date on which the occupational series established under paragraph (1) takes effect may elect—

(A) to remain in the occupational series in which the individual is employed; or

(B) to be included in the "wildland firefighter" occupational series established under that paragraph.

(4) PERMANENT EMPLOYEES; INCREASE IN SALARY.—Using the amounts made available under subsection (c)(2), beginning October 1, 2021, the Secretary of the Interior and the Secretary of Agriculture shall—

(A) seek to convert not fewer than 1,000 seasonal wildland firefighters to wildland firefighters that—

(i) are full-time, permanent, year-round Federal employees; and

(ii) reduce hazardous fuels on Federal land not fewer than 800 hours per year; and

(B) increase the base salary of a Federal wildland firefighter by the lesser of an amount that is commensurate with an increase of $20,000 per year or an amount equal to 50 percent of the base salary, if the Secretary concerned, in coordination with the Director of the Office of Personnel Management, makes a written determination that the position of the Federal wildland firefighter is located within a specified geographic area in which it is difficult to recruit or retain a Federal wildland firefighter.

(5) NATIONAL WILDFIRE COORDINATING GROUP.—Using the amounts made available under subsection (c)(2), not later than October 1, 2022, the Secretary of the Interior and the Secretary of Agriculture shall—

(A) develop and adhere to recommendations for mitigation strategies for wildland firefighters to minimize exposure due to line-of-duty environmental hazards; and

(B) establish programs for permanent, temporary, seasonal, and year-round wildland firefighters to recognize and address mental health needs, including post-traumatic stress disorder care.

(e) COLLABORATIVE FOREST LANDSCAPE RESTORATION PROGRAM.—Subject to the availability of appropriations, not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall, using the amounts made available under subsection (c)(10)—

(1) solicit new project proposals under the Collaborative Forest Landscape Restoration Program established under section 4003 of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 7303) (referred to in this subsection as the "Program");

(2) provide up to 5 years of additional funding of any proposal originally selected for funding under the Program prior to September 30, 2018—

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(A) that has been approved for an extension of funding by the Secretary of Agriculture prior to the date of enactment of this Act; or

(B) that has been recommended for an extension of funding by the advisory panel established under section 4003(e) of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 7303(e)) prior to the date of enactment of this Act that the Secretary of Agriculture subsequently approves; and

(3) select project proposals for funding under the Program in a manner that—

(A) gives priority to a project proposal that will treat acres that—

(i) have been identified as having very high wildfire hazard potential; and

(ii) are located in—

(I) the wildland-urban interface; or

(II) a public drinking water source area;

(B) takes into consideration—

(i) the cost per acre of Federal land or Indian forest land or rangeland acres described in subparagraph (A) to be treated; and

(ii) the number of acres described in subparagraph (A) to be treated;

(C) gives priority to a project proposal that is proposed by a collaborative that has successfully accomplished treatments consistent with a written plan that included a proposed schedule of completing those treatments, which is not limited to an earlier proposal funded under the Program; and

(D) discontinues funding for a project that fails to achieve the results included in a project proposal submitted under paragraph (1) for more than 2 consecutive years.

(f) COMMUNITY WILDFIRE DEFENSE GRANT PROGRAM.—

(1) ESTABLISHMENT.—Subject to the availability of appropriations, not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall, using amounts made available under subsection (c)(12), establish a program, which shall be separate from the program established under section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133), under which the Secretary of Agriculture, in cooperation with the States, shall award grants to at-risk communities, including Indian Tribes—

(A) to develop or revise a community wildfire protection plan; and

(B) to carry out projects described in a community wildfire protection plan that is not more than 10 years old.

(2) PRIORITY.—In awarding grants under the program described in paragraph (1), the Secretary of Agriculture shall give priority to an at-risk community that is—

(A) in an area identified by the Secretary of Agriculture as having high or very high wildfire hazard potential;

(B) a low-income community; or

(C) a community impacted by a severe disaster.

(3) COMMUNITY WILDFIRE DEFENSE GRANTS.—

(A) GRANT AMOUNTS.—A grant—

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(i) awarded under paragraph (1)(A) shall be for not more than $250,000; and

(ii) awarded under paragraph (1)(B) shall be for not more than $10,000,000.

(B) COST SHARING REQUIREMENT.—

(i) IN GENERAL.—Except as provided in clause (ii), the non-Federal cost (including the administrative cost) of carrying out a project using funds from a grant awarded under the program described in paragraph (1) shall be—

(I) not less than 10 percent for a grant awarded under paragraph (1)(A); and

(II) not less than 25 percent for a grant awarded under paragraph (1)(B).

(ii) WAIVER.—The Secretary of Agriculture may waive the cost-sharing requirement under clause (i) for a project that serves an underserved community.

(C) ELIGIBILITY.—The Secretary of Agriculture shall not award a grant under paragraph (1) to an at-risk community that is located in a county or community that—

(i) is located in the continental United States; and

(ii) has not adopted an ordinance or regulation that requires the construction of new roofs on buildings to adhere to standards that are similar to, or more stringent than—

(I) the roof construction standards established by the National Fire Protection Association; or

(II) an applicable model building code established by the International Code Council.

(g) PRIORITIES.—In carrying out projects using amounts made available under this section, the Secretary of the Interior or the Secretary of Agriculture, acting through the Chief of the Forest Service, as applicable, shall prioritize funding for projects—

(1) for which any applicable processes under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been completed on the date of enactment of this Act;

(2) that reduce the likelihood of experiencing uncharacteristically severe effects from a potential wildfire by focusing on areas strategically important for reducing the risks associated with wildfires;

(3) that maximize the retention of large trees, as appropriate for the forest type, to the extent that the trees promote fire-resilient stands;

(4) that do not include the establishment of permanent roads;

(5) for which funding would be committed to decommission all temporary roads constructed to carry out the project; and

(6) that fully maintain or contribute toward the restoration of the structure and composition of old growth stands consistent with the characteristics of that forest type, taking into account the contribution of the old growth stand to landscape fire adaption and watershed health, unless the old growth stand is part of a science-based ecological restoration project authorized by the Secretary concerned that meets applicable protection and old growth enhancement objectives, as determined by the Secretary concerned.

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(h) REPORTS.— The Secretary of the Interior and the Secretary of Agriculture, acting through the Chief of the Forest Service, shall complete and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives an annual report describing the number of acres of land on which projects carried out using funds made available under this section improved the Fire Regime Condition Class of the land described in subsection (b).

(i) WILDFIRE PREVENTION STUDY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall initiate a study of the construction and maintenance of a system of strategically placed fuelbreaks to control wildfires in western States.

(2) REVIEW.—The study under paragraph (1) shall review—

(A) a full suite of manual, chemical, and mechanical treatments; and

(B) the effectiveness of the system described in that paragraph in reducing wildfire risk and protecting communities.

(3) DETERMINATION.—Not later than 90 days after the date of completion of the study under paragraph (1), the Secretary of Agriculture shall determine whether to initiate the preparation of a programmatic environmental impact statement implementing the system described in that paragraph in appropriate locations.

(j) MONITORING, MAINTENANCE, AND TREATMENT PLAN AND STRATEGY.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Secretary of Agriculture and the Secretary of the Interior shall establish a 5-year monitoring, maintenance, and treatment plan that—

(A) describes activities under subsection (c) that the Secretary of Agriculture and the Secretary of the Interior will take to reduce the risk of wildfire by conducting restoration treatments and improving the Fire Regime Condition Class of 10,000,000 acres of Federal land or Tribal Forest land or rangeland that is identified as having very high wildfire hazard potential, not including annual treatments otherwise scheduled;

(B) establishes a process for prioritizing treatments in areas and communities at the highest risk of catastrophic wildfires;

(C) includes an innovative plan and process—

(i) to leverage public-private partnerships and resources, shared stewardship agreements, good neighbor agreements, and similar contracting authorities;

(ii) to prioritize projects for which any applicable processes under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been completed as of the date of enactment of this Act;

(iii) to streamline subsequent projects based on existing statutory or regulatory authorities; and

(iv) to develop interagency teams to increase coordination and efficiency under the National

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Environmental Policy Act of 1969 (42 U.S.C. 4321); and

(D) establishes a process for coordinating prioritization and treatment with State and local entities and affected stakeholders.

(2) STRATEGY.—Not later than 5 years after the date of enactment of this Act, the Secretary of Agriculture and the Secretary of the Interior, in coordination with State and local governments, shall publish a long-term, outcome-based monitoring, maintenance, and treatment strategy—

(A) to maintain forest health improvements and wildfire risk reduction accomplished under this section;

(B) to continue treatment at levels necessary to address the 20,000,000 acres needing priority treatment over the 10-year period beginning on the date of publication of the strategy; and

(C) to proactively conduct treatment at a level necessary to minimize the risk of wildfire to surrounding at-risk communities.

(k) AUTHORIZED HAZARDOUS FUELS PROJECTS.—A project carried out using funding authorized under paragraphs (11)(A)(i), (13), or (14) of subsection (c) shall be considered an authorized hazardous fuel reduction project pursuant to section 102 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6512).

SEC. 40804. ECOSYSTEM RESTORATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Interior and the Secretary of Agriculture, acting through the Chief of the Forest Service, for the activities described in subsection (b), $2,130,000,000 for the period of fiscal years 2022 through 2026.

(b) ACTIVITIES.—Of the amounts made available under subsection (a) for the period of fiscal years 2022 through 2026—

(1) $300,000,000 shall be made available, in accordance with subsection (c), to the Secretary of the Interior and the Secretary of Agriculture—

(A) for—

(i) entering into contracts, including stewardship contracts or agreements, the purpose of each of which shall be to restore ecological health on not fewer than 10,000 acres of Federal land, including Indian forest land or rangeland, and for salaries and expenses associated with preparing and executing those contracts; and

(ii) establishing a Working Capital Fund that may be accessed by the Secretary of the Interior or the Secretary of Agriculture to fund requirements of contracts described in clause (i), including cancellation and termination costs, consistent with section 604(h) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591c(h)), and periodic payments over the span of the contract period; and

(B) of which—

(i) $50,000,000 shall be made available to the Secretary of the Interior to enter into contracts described in subparagraph (A)(i);

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(ii) $150,000,000 shall be made available to the Secretary of Agriculture to enter into contracts described in subparagraph (A)(i); and

(iii) $100,000,000 shall be made available until expended to the Secretary of the Interior, notwithstanding any other provision of this Act, to establish the Working Capital Fund described in subparagraph (A)(ii);

(2) $200,000,000 shall be made available to provide to States and Indian Tribes for implementing restoration projects on Federal land pursuant to good neighbor agreements entered into under section 8206 of the Agricultural Act of 2014 (16 U.S.C. 2113a) or agreements entered into under section 2(b) of the Tribal Forest Protection Act of 2004 (25 U.S.C. 3115a(b)), of which—

(A) $40,000,000 shall be made available to the Secretary of the Interior; and

(B) $160,000,000 shall be made available to the Secretary of Agriculture;

(3) $400,000,000 shall be made available to the Secretary of Agriculture to provide financial assistance to facilities that purchase and process byproducts from ecosystem restoration projects in accordance with subsection (d);

(4) $400,000,000 shall be made available to the Secretary of the Interior to provide grants to States, territories of the United States, and Indian Tribes for implementing voluntary ecosystem restoration projects on private or public land, in consultation with the Secretary of Agriculture, that—

(A) prioritizes funding cross-boundary projects; and

(B) requires matching funding from the State, territory of the United States, or Indian Tribe to be eligible to receive the funding;

(5) $50,000,000 shall be made available to the Secretary of Agriculture to award grants to States and Indian Tribes to establish rental programs for portable skidder bridges, bridge mats, or other temporary water crossing structures, to minimize stream bed disturbance on non-Federal land and Federal land;

(6) $200,000,000 shall be made available for invasive species detection, prevention, and eradication, including conducting research and providing resources to facilitate detection of invasive species at points of entry and awarding grants for eradication of invasive species on non-Federal land and on Federal land, of which—

(A) $100,000,000 shall be made available to the Secretary of the Interior; and

(B) $100,000,000 shall be made available to the Secretary of Agriculture;

(7) $100,000,000 shall be made available to restore, prepare, or adapt recreation sites on Federal land, including Indian forest land or rangeland, in accordance with subsection (e);

(8) $200,000,000 shall be made available to restore native vegetation and mitigate environmental hazards on mined land on Federal and non-Federal land, of which—

(A) $100,000,000 shall be made available to the Secretary of the Interior; and

(B) $100,000,000 shall be made available to the Secretary of Agriculture;

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(9) $200,000,000 shall be made available to establish and implement a national revegetation effort on Federal and non-Federal land, including to implement the National Seed Strategy for Rehabilitation and Restoration, of which—

(A) $70,000,000 shall be made available to the Secretary of the Interior; and

(B) $130,000,000 shall be made available to the Secretary of Agriculture; and

(10) $80,000,000 shall be made available to the Secretary of Agriculture, in coordination with the Secretary of the Interior, to establish a collaborative-based, landscape-scale restoration program to restore water quality or fish passage on Federal land, including Indian forest land or rangeland, in accordance with subsection (f).

(c) ECOLOGICAL HEALTH RESTORATION CONTRACTS.—

(1) SUBMISSION OF LIST OF PROJECTS TO CONGRESS.—Until the date on which all of the amounts made available to carry out subsection (b)(1)(A)(i) are expended, not later than 90 days before the end of each fiscal year, the Secretary of the Interior and the Secretary of Agriculture shall submit to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate and the Committee on Natural Resources and the Committee on Appropriations of the House of Representatives a list of projects to be funded under that subsection in the subsequent fiscal year, including—

(A) a detailed description of each project; and

(B) an estimate of the cost, including salaries and expenses, for the project.

(2) ALTERNATE ALLOCATION.—Appropriations Acts may provide for alternate allocation of amounts made available under subsection (b)(1), consistent with the allocations under subparagraph (B) of that subsection.

(3) LACK OF ALTERNATE ALLOCATIONS.—If Congress has not enacted legislation establishing alternate allocations described in paragraph (2) by the date on which the Act making full-year appropriations for the Department of the Interior, Environment, and Related Agencies for the applicable fiscal year is enacted into law, amounts made available under subsection (b)(1)(B) shall be allocated by the President.

(d) WOOD PRODUCTS INFRASTRUCTURE.—The Secretary of Agriculture, in coordination with the Secretary of the Interior, shall—

(1) develop a ranking system that categorizes units of Federal land, including Indian forest land or rangeland, with regard to treating areas at risk of unnaturally severe wildfire or insect or disease infestation, as being—

(A) very low priority for ecological restoration involving vegetation removal;

(B) low priority for ecological restoration involving vegetation removal;

(C) medium priority for ecological restoration involving vegetation removal;

(D) high priority for ecological restoration involving vegetation removal; or

(E) very high priority for ecological restoration involving vegetation removal;

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(2) determine, for a unit identified under paragraph (1) as being high or very high priority for ecological restoration involving vegetation removal, if—

(A) a sawmill or other wood-processing facility exists in close proximity to, or a forest worker is seeking to conduct restoration treatment work on or in close proximity to, the unit; and

(B) the presence of a sawmill or other wood-processing facility would substantially decrease or does substantially decrease the cost of conducting ecological restoration projects involving vegetation removal;

(3) in accordance with any conditions the Secretary of Agriculture determines to be necessary, using the amounts made available under subsection (b)(3), provide financial assistance, including a low-interest loan or a loan guarantee, to an entity seeking to establish, reopen, retrofit, expand, or improve a sawmill or other wood-processing facility in close proximity to a unit of Federal land that has been identified under paragraph (1) as high or very high priority for ecological restoration, if the presence of a sawmill or other wood-processing facility would substantially decrease or does substantially decrease the cost of conducting ecological restoration projects involving vegetation removal on the unit of Federal land, including Indian forest land or rangeland, as determined under paragraph (2)(B); and

(4) to the extent practicable, when allocating funding to units of Federal land for ecological restoration projects involving vegetation removal, give priority to a unit of Federal land that—

(A) has been identified under paragraph (1) as being high or very high priority for ecological restoration involving vegetation removal; and

(B) has a sawmill or other wood-processing facility—

(i) that, as determined under paragraph (2)—

(I) exists in close proximity to the unit; and

(II) does substantially decrease the cost of conducting ecological restoration projects involving vegetation removal on the unit; or

(ii) that has received financial assistance under paragraph (3).

(e) RECREATION SITES.—

(1) SITE RESTORATION AND IMPROVEMENTS.—Of the amounts made available under subsection (b)(7), $45,000,000 shall be made available to the Secretary of the Interior and $35,000,000 shall be made available the Secretary of Agriculture to restore, prepare, or adapt recreation sites on Federal land, including Indian forest land or rangeland, that have experienced or may likely experience visitation and use beyond the carrying capacity of the sites.

(2) PUBLIC USE RECREATION CABINS.—

(A) IN GENERAL.—Of the amounts made available under subsection (b)(7), $20,000,000 shall be made available to the Secretary of Agriculture for—

(i) the operation, repair, reconstruction, and construction of public use recreation cabins on National Forest System land; and

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(ii) to the extent necessary, the repair or reconstruction of historic buildings that are to be outleased under section 306121 of title 54, United States Code.

(B) INCLUSION.—Of the amount described in subparagraph (A), $5,000,000 shall be made available to the Secretary of Agriculture for associated salaries and expenses in carrying out that subparagraph.

(C) AGREEMENTS.—The Secretary of Agriculture may enter into a lease or cooperative agreement with a State, Indian Tribe, local government, or private entity—

(i) to carry out the activities described in subparagraph (A); or

(ii) to manage the renting of a cabin or building described in subparagraph (A) to the public.

(3) EXCLUSION.—A project shall not be eligible for funding under this subsection if—

(A) funding for the project would be used for deferred maintenance, as defined by Federal Accounting Standards Advisory Board; and

(B) the Secretary of the Interior or the Secretary of Agriculture has identified the project for funding from the National Parks and Public Land Legacy Restoration Fund established by section 200402(a) of title 54, United States Code.

(f) COLLABORATIVE-BASED, AQUATIC-FOCUSED, LANDSCAPE-SCALE RESTORATION PROGRAM.—Subject to the availability of appropriations, not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall, in coordination with the Secretary of the Interior and using the amounts made available under subsection (b)(10)—

(1) solicit collaboratively developed proposals that—

(A) are for 5-year projects to restore fish passage or water quality on Federal land and non-Federal land to the extent allowed under section 323(a) of the Department of the Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 1011a(a)), including Indian forest land or rangeland;

(B) contain proposed accomplishments and proposed non-Federal funding; and

(C) request not more than $5,000,000 in funding made available under subsection (b)(10);

(2) select project proposals for funding in a manner that—

(A) gives priority to a project proposal that would result in the most miles of streams being restored for the lowest amount of Federal funding; and

(B) discontinues funding for a project that fails to achieve the results included in a proposal submitted under paragraph (1) for more than 2 consecutive years; and

(3) publish a list of—

(A) all of the priority watersheds on National Forest System land;

(B) the condition of each priority watershed on the date of enactment of this Act; and

(C) the condition of each priority watershed on the date that is 5 years after the date of enactment of this Act.

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SEC. 40805. GAO STUDY.

(a) STUDY.—Not later than 6 years after the date of enactment of this Act, the Comptroller General of the United States shall—

(1) conduct a study on the implementation of this title and the amendments made by this title, including whether this title and the amendments made by this title have—

(A) effectively reduced wildfire risk, including the extent to which the wildfire hazard on Federal land has changed; and

(B) restored ecosystems on Federal and non-Federal land; and

(2) submit to Congress a report that describes the results of the study under paragraph (1).

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Comptroller General of the Unites States for the activities described in subsection (a) $800,000.

SEC. 40806. ESTABLISHMENT OF FUEL BREAKS IN FORESTS AND OTHER WILDLAND VEGETATION.

(a) DEFINITION OF SECRETARY CONCERNED.—In this section, the term "Secretary concerned" means—

(1) the Secretary of Agriculture, with respect to National Forest System land; and

(2) the Secretary of the Interior, with respect to public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)) administered by the Bureau of Land Management.

(b) CATEGORICAL EXCLUSION ESTABLISHED.—Forest management activities described in subsection (c) are a category of actions designated as being categorically excluded from the preparation of an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if the categorical exclusion is documented through a supporting record and decision memorandum.

(c) FOREST MANAGEMENT ACTIVITIES DESIGNATED FOR CATEGORICAL EXCLUSION.—

(1) IN GENERAL.—The category of forest management activities designated under subsection (b) for a categorical exclusion are forest management activities described in paragraph (2) that are carried out by the Secretary concerned on public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)) administered by the Bureau of Land Management or National Forest System land the primary purpose of which is to establish and maintain linear fuel breaks that are—

(A) up to 1,000 feet in width contiguous with or incorporating existing linear features, such as roads, water infrastructure, transmission and distribution lines, and pipelines of any length on Federal land; and

(B) intended to reduce the risk of uncharacteristic wildfire on Federal land or catastrophic wildfire for an adjacent at-risk community.

(2) ACTIVITIES.—Subject to paragraph (3), the forest management activities that may be carried out pursuant to the categorical exclusion established under subsection (b) are—

(A) mowing or masticating;

(B) thinning by manual and mechanical cutting;

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(C) piling, yarding, and removal of slash or hazardous fuels;

(D) selling of vegetation products, including timber, firewood, biomass, slash, and fenceposts;

(E) targeted grazing;

(F) application of—

(i) pesticide;

(ii) biopesticide; or

(iii) herbicide;

(G) seeding of native species;

(H) controlled burns and broadcast burning; and

(I) burning of piles, including jackpot piles.

(3) EXCLUDED ACTIVITIES.—A forest management activity described in paragraph (2) may not be carried out pursuant to the categorical exclusion established under subsection (b) if the activity is conducted—

(A) in a component of the National Wilderness Preservation System;

(B) on Federal land on which the removal of vegetation is prohibited or restricted by Act of Congress, Presidential proclamation (including the applicable implementation plan), or regulation;

(C) in a wilderness study area; or

(D) in an area in which carrying out the activity would be inconsistent with the applicable land management plan or resource management plan.

(4) EXTRAORDINARY CIRCUMSTANCES.—The Secretary concerned shall apply the extraordinary circumstances procedures under section 220.6 of title 36, Code of Federal Regulations (or a successor regulation), in determining whether to use a categorical exclusion under subsection (b).

(d) ACREAGE AND LOCATION LIMITATIONS.—Treatments of vegetation in linear fuel breaks covered by the categorical exclusion established under subsection (b)—

(1) may not contain treatment units in excess of 3,000 acres;

(2) shall be located primarily in—

(A) the wildland-urban interface or a public drinking water source area;

(B) if located outside the wildland-urban interface or a public drinking water source area, an area within Condition Class 2 or 3 in Fire Regime Group I, II, or III that contains very high wildfire hazard potential; or

(C) an insect or disease area designated by the Secretary concerned as of the date of enactment of this Act; and

(3) shall consider the best available scientific information.

(e) ROADS.—

(1) PERMANENT ROADS.—A project under this section shall not include the establishment of permanent roads.

(2) EXISTING ROADS.—The Secretary concerned may carry out necessary maintenance and repairs on existing permanent roads for the purposes of this section.

(3) TEMPORARY ROADS.—The Secretary concerned shall decommission any temporary road constructed under a project under this section not later than 3 years after the date on which the project is completed.

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(f) PUBLIC COLLABORATION.—To encourage meaningful public participation during the preparation of a project under this section, the Secretary concerned shall facilitate, during the preparation of each project—

(1) collaboration among State and local governments and Indian Tribes; and

(2) participation of interested persons.

SEC. 40807. EMERGENCY ACTIONS.

(a) DEFINITIONS.—In this section:

(1) AUTHORIZED EMERGENCY ACTION.—The term "authorized emergency action" means an action carried out pursuant to an emergency situation determination issued under this section to mitigate the harm to life, property, or important natural or cultural resources on National Forest System land or adjacent land.

(2) EMERGENCY SITUATION.—The term "emergency situation" means a situation on National Forest System land for which immediate implementation of 1 or more authorized emergency actions is necessary to achieve 1 or more of the following results:

(A) Relief from hazards threatening human health and safety.

(B) Mitigation of threats to natural resources on National Forest System land or adjacent land.

(3) EMERGENCY SITUATION DETERMINATION.—The term "emergency situation determination" means a determination made by the Secretary under subsection (b)(1)(A).

(4) LAND AND RESOURCE MANAGEMENT PLAN.—The term "land and resource management plan" means a plan developed under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).

(5) NATIONAL FOREST SYSTEM LAND.—The term "National Forest System land" means land of the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a))).

(6) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(b) AUTHORIZED EMERGENCY ACTIONS TO RESPOND TO EMERGENCY SITUATIONS.—

(1) DETERMINATION.—

(A) IN GENERAL.—The Secretary may make a determination that an emergency situation exists with respect to National Forest System land.

(B) REVIEW.—An emergency situation determination shall not be subject to objection under the predecisional administrative review processes under part 218 of title 36, Code of Federal Regulations (or successor regulations).

(C) BASIS OF DETERMINATION.—An emergency situation determination shall be based on an examination of the relevant information.

(2) AUTHORIZED EMERGENCY ACTIONS.—After making an emergency situation determination with respect to National Forest System land, the Secretary may carry out authorized emergency actions on that National Forest System land in order to achieve reliefs from hazards threatening human health and safety or mitigation of threats to natural resources on

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National Forest System land or adjacent land, including through—

(A) the salvage of dead or dying trees;

(B) the harvest of trees damaged by wind or ice;

(C) the commercial and noncommercial sanitation harvest of trees to control insects or disease, including trees already infested with insects or disease;

(D) the reforestation or replanting of fire-impacted areas through planting, control of competing vegetation, or other activities that enhance natural regeneration and restore forest species;

(E) the removal of hazardous trees in close proximity to roads and trails;

(F) the removal of hazardous fuels;

(G) the restoration of water sources or infrastructure;

(H) the reconstruction of existing utility lines; and

(I) the replacement of underground cables.

(3) RELATION TO LAND AND RESOURCE MANAGEMENT PLANS.—Any authorized emergency action carried out under paragraph (2) on National Forest System land shall be conducted consistent with the applicable land and resource management plan.

(c) ENVIRONMENTAL ANALYSIS.—

(1) ENVIRONMENTAL ASSESSMENT OR ENVIRONMENTAL IMPACT STATEMENT.—If the Secretary determines that an authorized emergency action requires an environmental assessment or an environmental impact statement pursuant to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)), the Secretary shall study, develop, and describe—

(A) the proposed agency action, taking into account the probable environmental consequences of the authorized emergency action and mitigating foreseeable adverse environmental effects, to the extent practicable; and

(B) the alternative of no action.

(2) PUBLIC NOTICE.—The Secretary shall provide notice of each authorized emergency action that the Secretary determines requires an environmental assessment or environmental impact statement under paragraph (1), in accordance with applicable regulations and administrative guidelines.

(3) PUBLIC COMMENT.—The Secretary shall provide an opportunity for public comment during the preparation of any environmental assessment or environmental impact statement under paragraph (1).

(4) SAVINGS CLAUSE.—Nothing in this subsection prohibits the Secretary from—

(A) making an emergency situation determination, including a determination that an emergency exists pursuant to section 218.21(a) of title 36, Code of Federal Regulations (or successor regulations); or

(B) taking an emergency action under section 220.4(b) of title 36, Code of Federal Regulations (or successor regulations).

(d) ADMINISTRATIVE REVIEW OF AUTHORIZED EMERGENCY ACTIONS.—An authorized emergency action carried out under this section shall not be subject to objection under the predecisional administrative review processes established under section 105 of

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the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6515) and section 428 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2012 (16 U.S.C. 6515 note; Public Law 112–74).

(e) JUDICIAL REVIEW OF EMERGENCY ACTIONS.—A court shall not enjoin an authorized emergency action under this section if the court determines that the plaintiff is unable to demonstrate that the claim of the plaintiff is likely to succeed on the merits.

(f) NOTIFICATION AND GUIDANCE.—The Secretary shall provide notification and guidance to each local field office of the Forest Service to ensure awareness of, compliance with, and appropriate use of the authorized emergency action authority under this section.

SEC. 40808. JOINT CHIEFS LANDSCAPE RESTORATION PARTNERSHIP PROGRAM.

(a) DEFINITIONS.—In this section:

(1) CHIEFS.—The term "Chiefs" means the Chief of the Forest Service and the Chief of the Natural Resources Conservation Service.

(2) ELIGIBLE ACTIVITY.—The term "eligible activity" means an activity—

(A) to reduce the risk of wildfire;

(B) to protect water quality and supply; or

(C) to improve wildlife habitat for at-risk species.

(3) PROGRAM.—The term "Program" means the Joint Chiefs Landscape Restoration Partnership program established under subsection (b)(1).

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(5) WILDLAND-URBAN INTERFACE.—The term "wildland-urban interface" has the meaning given the term in section 101 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6511).

(b) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a Joint Chiefs Landscape Restoration Partnership program to improve the health and resilience of forest landscapes across National Forest System land and State, Tribal, and private land.

(2) ADMINISTRATION.—The Secretary shall administer the Program by coordinating eligible activities conducted on National Forest System land and State, Tribal, or private land across a forest landscape to improve the health and resilience of the forest landscape by—

(A) assisting producers and landowners in implementing eligible activities on eligible private or Tribal land using the applicable programs and authorities administered by the Chief of the Natural Resources Conservation Service under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), not including the conservation reserve program established under subchapter B of chapter 1 of subtitle D of that title (16 U.S.C. 3831 et seq.); and

(B) conducting eligible activities on National Forest System land or assisting landowners in implementing eligible activities on State, Tribal, or private land using the applicable programs and authorities administered by the Chief of the Forest Service.

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(c) SELECTION OF ELIGIBLE ACTIVITIES.—The appropriate Regional Forester and State Conservationist shall jointly submit to the Chiefs on an annual basis proposals for eligible activities under the Program.

(d) EVALUATION CRITERIA.—In evaluating and selecting proposals submitted under subsection (c), the Chiefs shall consider—

(1) criteria including whether the proposal—

(A) reduces wildfire risk in a municipal watershed or the wildland-urban interface;

(B) was developed through a collaborative process with participation from diverse stakeholders;

(C) increases forest workforce capacity or forest business infrastructure and development;

(D) leverages existing authorities and non-Federal funding;

(E) provides measurable outcomes; or

(F) supports established State and regional priorities; and

(2) such other criteria relating to the merits of the proposals as the Chiefs determine to be appropriate.

(e) OUTREACH.—The Secretary shall provide—

(1) public notice on the websites of the Forest Service and the Natural Resources Conservation Service describing—

(A) the solicitation of proposals under subsection (c); and

(B) the criteria for selecting proposals in accordance with subsection (d); and

(2) information relating to the Program and activities funded under the Program to States, Indian Tribes, units of local government, and private landowners.

(f) EXCLUSIONS.—An eligible activity may not be carried out under the Program—

(1) in a wilderness area or designated wilderness study area;

(2) in an inventoried roadless area;

(3) on any Federal land on which, by Act of Congress or Presidential proclamation, the removal of vegetation is restricted or prohibited; or

(4) in an area in which the eligible activity would be inconsistent with the applicable land and resource management plan.

(g) ACCOUNTABILITY.—

(1) INITIAL REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report providing recommendations to Congress relating to the Program, including a review of—

(A) funding mechanisms for the Program;

(B) staff capacity to carry out the Program;

(C) privacy laws applicable to the Program;

(D) data collection under the Program;

(E) monitoring and outcomes under the Program; and

(F) such other matters as the Secretary considers to be appropriate.

(2) ADDITIONAL REPORTS.—For each of fiscal years 2022 and 2023, the Chiefs shall submit to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations of the Senate and the Committee on Agriculture and

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the Committee on Appropriations of the House of Representatives a report describing projects for which funding is provided under the Program, including the status and outcomes of those projects.

(h) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out the Program $90,000,000 for each of fiscal years 2022 and 2023.

(2) ADDITIONAL FUNDS.—In addition to the funds described in paragraph (1), the Secretary may obligate available funds from accounts used to carry out the existing Joint Chiefs' Landscape Restoration Partnership prior to the date of enactment of this Act to carry out the Program.

(3) DURATION OF AVAILABILITY.—Funds made available under paragraph (1) shall remain available until expended.

(4) DISTRIBUTION OF FUNDS.—Of the funds made available under paragraph (1)—

(A) not less than 40 percent shall be allocated to carry out eligible activities through the Natural Resources Conservation Service;

(B) not less than 40 percent shall be allocated to carry out eligible activities through the Forest Service; and

(C) the remaining funds shall be allocated by the Chiefs to the Natural Resources Conservation Service or the Forest Service—

(i) to carry out eligible activities; or

(ii) for other purposes, such as technical assistance, project development, or local capacity building.

TITLE IX—WESTERN WATER INFRASTRUCTURE

SEC. 40901. AUTHORIZATIONS OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of the Interior, acting through the Commissioner of Reclamation (referred to in this title as the "Secretary"), for the period of fiscal years 2022 through 2026—

(1) $1,150,000,000 for water storage, groundwater storage, and conveyance projects in accordance with section 40902, of which $100,000,000 shall be made available to provide grants to plan and construct small surface water and groundwater storage projects in accordance with section 40903;

(2) $3,200,000,000 for the Aging Infrastructure Account established by subsection (d)(1) of section 9603 of the Omnibus Public Land Management Act of 2009 (43 U.S.C. 510b), to be made available for activities in accordance with that subsection, including major rehabilitation and replacement activities, as identified in the Asset Management Report of the Bureau of Reclamation dated April 2021, of which—

(A) $100,000,000 shall be made available for Bureau of Reclamation reserved or transferred works that have suffered a critical failure, in accordance with section 40904(a); and

(B) $100,000,000 shall be made available for the rehabilitation, reconstruction, or replacement of a dam in accordance with section 40904(b);

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(3) $1,000,000,000 for rural water projects that have been authorized by an Act of Congress before July 1, 2021, in accordance with the Reclamation Rural Water Supply Act of 2006 (43 U.S.C. 2401 et seq.);

(4) $1,000,000,000 for water recycling and reuse projects, of which—

(A) $550,000,000 shall be made available for water recycling and reuse projects authorized in accordance with the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) that are—

(i) authorized or approved for construction funding by an Act of Congress before the date of enactment of this Act; or

(ii) selected for funding under the competitive grant program authorized pursuant to section 1602(f) of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h(f)), with funding under this subparagraph to be provided in accordance with that section, notwithstanding section 4013 of the Water Infrastructure Improvements for the Nation Act (43 U.S.C. 390b note; Public Law 114–322), except that section 1602(g)(2) of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h(g)(2)) shall not apply to amounts made available under this subparagraph; and

(B) $450,000,000 shall be made available for large-scale water recycling and reuse projects in accordance with section 40905;

(5) $250,000,000 for water desalination projects and studies authorized in accordance with the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298) that are—

(A) authorized or approved for construction funding by an Act of Congress before July 1, 2021; or

(B) selected for funding under the program authorized pursuant to section 4(a) of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298), with funding to be made available under this paragraph in accordance with that subsection, notwithstanding section 4013 of the Water Infrastructure Improvements for the Nation Act (43 U.S.C. 390b note; Public Law 114–322), except that paragraph (2)(F) of section 4(a) of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298) (as redesignated by section 40908) shall not apply to amounts made available under this paragraph;

(6) $500,000,000 for the safety of dams program, in accordance with the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 506 et seq.);

(7) $400,000,000 for WaterSMART grants in accordance with section 9504 of the Omnibus Public Land Management Act of 2009 (42 U.S.C. 10364), of which $100,000,000 shall be made available for projects that would improve the condition of a natural feature or nature-based feature (as those terms are defined in section 9502 of the Omnibus Public Land Management Act of 2009 (42 U.S.C. 10362));

(8) subject to section 40906, $300,000,000 for implementing the Colorado River Basin Drought Contingency Plan, consistent with the obligations of the Secretary under the Colorado River

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Drought Contingency Plan Authorization Act (Public Law 116–14; 133 Stat. 850) and related agreements, of which $50,000,000 shall be made available for use in accordance with the Drought Contingency Plan for the Upper Colorado River Basin;

(9) $100,000,000 to provide financial assistance for watershed management projects in accordance with subtitle A of title VI of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 1015 et seq.);

(10) $250,000,000 for design, study, and construction of aquatic ecosystem restoration and protection projects in accordance with section 1109 of division FF of the Consolidated Appropriations Act, 2021 (Public Law 116–260);

(11) $100,000,000 for multi-benefit projects to improve watershed health in accordance with section 40907; and

(12) $50,000,000 for endangered species recovery and conservation programs in the Colorado River Basin in accordance with—

(A) Public Law 106–392 (114 Stat. 1602);

(B) the Grand Canyon Protection Act of 1992 (Public Law 102–575; 106 Stat. 4669); and

(C) subtitle E of title IX of the Omnibus Public Land Management Act of 2009 (Public Law 111–11; 123 Stat. 1327).

SEC. 40902. WATER STORAGE, GROUNDWATER STORAGE, AND CONVEYANCE PROJECTS.

(a) ELIGIBILITY FOR FUNDING.—

(1) FEASIBILITY STUDIES.—

(A) IN GENERAL.—A feasibility study shall only be eligible for funding under section 40901(1) if—

(i) the feasibility study has been authorized by an Act of Congress before the date of enactment of this Act;

(ii) Congress has approved funding for the feasibility study in accordance with section 4007 of the Water Infrastructure Improvements for the Nation Act (43 U.S.C. 390b note; Public Law 114–322) before the date of enactment of this Act; or

(iii) the feasibility study is authorized under subparagraph (B).

(B) FEASIBILITY STUDY AUTHORIZATIONS.—The Secretary may carry out feasibility studies for the following projects:

(i) The Verde Reservoirs Sediment Mitigation Project in the State of Arizona.

(ii) The Tualatin River Basin Project in the State of Oregon.

(2) CONSTRUCTION.—A project shall only be eligible for construction funding under section 40901(1) if—

(A) an Act of Congress enacted before the date of enactment of this Act authorizes construction of the project;

(B) Congress has approved funding for construction of the project in accordance with section 4007 of the Water Infrastructure Improvements for the Nation Act (43 U.S.C. 390b note; Public Law 114–322) before the date of enactment of this Act, except for any project for which—

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(i) Congress did not approve the recommendation of the Secretary for funding under subsection (h)(2) of that section for at least 1 fiscal year before the date of enactment of this Act; or

(ii) State funding for the project was rescinded by the State before the date of enactment of this Act; or

(C)(i) Congress has authorized or approved funding for a feasibility study for the project in accordance with clause (i) or (ii) of paragraph (1)(A) (except that projects described in clauses (i) and (ii) of subparagraph (B) shall not be eligible); and

(ii) on completion of the feasibility study for the project, the Secretary—

(I) finds the project to be technically and financially feasible in accordance with the reclamation laws;

(II) determines that sufficient non-Federal funding is available for the non-Federal cost share of the project; and

(III)(aa) finds the project to be in the public interest; and

(bb) recommends the project for construction.

(b) COST-SHARING REQUIREMENT.—

(1) IN GENERAL.—The Federal share—

(A) for a project authorized by an Act of Congress shall be determined in accordance with that Act;

(B) for a project approved by Congress in accordance with section 4007 of the Water Infrastructure Improvements for the Nation Act (43 U.S.C. 390b note; Public Law 114–322) (including construction resulting from a feasibility study authorized under that Act) shall be as provided in that Act; and

(C) for a project not described in subparagraph (A) or (B)—

(i) in the case of a federally owned project, shall not exceed 50 percent of the total cost of the project; and

(ii) in the case of a non-Federal project, shall not exceed 25 percent of the total cost of the project.

(2) FEDERAL BENEFITS.—Before funding a project under this section, the Secretary shall determine that, in return for the Federal investment in the project, at least a proportionate share of the benefits are Federal benefits.

(3) REIMBURSABILITY.—The reimbursability of Federal funding of projects under this section shall be in accordance with the reclamation laws.

(c) ENVIRONMENTAL LAWS.—In providing funding for a project under this section, the Secretary shall comply with all applicable environmental laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

SEC. 40903. SMALL WATER STORAGE AND GROUNDWATER STORAGE PROJECTS.

(a) ESTABLISHMENT OF A COMPETITIVE GRANT PROGRAM FOR SMALL WATER STORAGE AND GROUNDWATER STORAGE PROJECTS.—The Secretary shall establish a competitive grant program, under

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which the non-Federal project sponsor of any project in a Reclamation State, including the State of Alaska or Hawaii, determined by the Secretary to be feasible under subsection (b)(2)(B) shall be eligible to apply for funding for the planning, design, and construction of the project.

(b) ELIGIBILITY AND SELECTION.—

(1) SUBMISSION TO THE SECRETARY.—

(A) IN GENERAL.—A non-Federal project sponsor described in subsection (a) may submit to the Secretary a proposal for a project eligible to receive a grant under this section in the form of a completed feasibility study.

(B) ELIGIBLE PROJECTS.—A project shall be considered eligible for consideration for a grant under this section if the project—

(i) has water storage capacity of not less than 2,000 acre-feet and not more than 30,000 acre-feet; and

(ii)(I) increases surface water or groundwater storage; or

(II) conveys water, directly or indirectly, to or from surface water or groundwater storage.

(C) GUIDELINES.—Not later than 60 days after the date of enactment of this Act, the Secretary shall issue guidelines for feasibility studies for small storage projects to provide sufficient information for the formulation of the studies.

(2) REVIEW BY THE SECRETARY.—The Secretary shall review each feasibility study received under paragraph (1)(A) for the purpose of determining whether—

(A) the feasibility study, and the process under which the study was developed, each comply with Federal laws (including regulations) applicable to feasibility studies of small storage projects;

(B) the project is technically and financially feasible, in accordance with—

(i) the guidelines developed under paragraph (1)(C); and

(ii) the reclamation laws; and

(C) the project provides a Federal benefit, as determined by the Secretary.

(3) SUBMISSION TO CONGRESS.—Not later than 180 days after the date of receipt of a feasibility study received under paragraph (1)(A), the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report that describes—

(A) the results of the review of the study by the Secretary under paragraph (2), including a determination of whether the project is feasible and provides a Federal benefit;

(B) any recommendations that the Secretary may have concerning the plan or design of the project; and

(C) any conditions the Secretary may require for construction of the project.

(4) ELIGIBILITY FOR FUNDING.—

(A) IN GENERAL.—The non-Federal project sponsor of any project determined by the Secretary to be feasible

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under paragraph (3)(A) shall be eligible to apply to the Secretary for a grant to cover the Federal share of the costs of planning, designing, and constructing the project pursuant to subsection (c).

(B) REQUIRED DETERMINATION.—Prior to awarding grants to a small storage project, the Secretary shall determine whether there is sufficient non-Federal funding available to complete the project.

(5) PRIORITY.—In awarding grants to projects under this section, the Secretary shall give priority to projects that meet 1 or more of the following criteria:

(A) Projects that are likely to provide a more reliable water supply for States, Indian Tribes, and local governments, including subdivisions of those entities.

(B) Projects that are likely to increase water management flexibility and reduce impacts on environmental resources from projects operated by Federal and State agencies.

(C) Projects that are regional in nature.

(D) Projects with multiple stakeholders.

(E) Projects that provide multiple benefits, including water supply reliability, ecosystem benefits, groundwater management and enhancements, and water quality improvements.

(c) CEILING ON FEDERAL SHARE.—The Federal share of the costs of each of the individual projects selected under this section shall not exceed the lesser of—

(1) 25 percent of the total project cost; or

(2) $30,000,000.

(d) ENVIRONMENTAL LAWS.—In providing funding for a grant for a project under this section, the Secretary shall comply with all applicable environmental laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) TERMINATION OF AUTHORITY.—The authority to carry out this section terminates on the date that is 5 years after the date of enactment of this Act.

SEC. 40904. CRITICAL MAINTENANCE AND REPAIR.

(a) CRITICAL FAILURE AT A RESERVED OR TRANSFERRED WORK.—

(1) IN GENERAL.—A reserved or transferred work shall only be eligible for funding under section 40901(2)(A) if—

(A) construction of the reserved or transferred work began on or before January 1, 1915; and

(B) a unit of the reserved or transferred work suffered a critical failure in Bureau of Reclamation infrastructure during the 2-year period ending on the date of enactment of this Act that resulted in the failure to deliver water to project beneficiaries.

(2) USE OF FUNDS.—Rehabilitation, repair, and replacement activities for a transferred or reserved work using amounts made available under section 40901(2)(A) may be used for the entire transferred or reserved work, regardless of whether the critical failure was limited to a single project of the overall work.

(3) NONREIMBURSABLE FUNDS.—Notwithstanding section 9603(b) of the Omnibus Public Land Management Act of 2009 (43 U.S.C. 510b(b)), amounts made available to a reserved

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or transferred work under section 40901(2)(A) shall be nonreimbursable to the United States.

(b) CAREY ACT PROJECTS.—The Secretary shall use amounts made available under section 40901(2)(B) to fund the rehabilitation, reconstruction, or replacement of a dam—

(1) the construction of which began on or after January 1, 1905;

(2) that was developed pursuant to section 4 of the Act of August 18, 1894 (commonly known as the "Carey Act") (43 U.S.C. 641; 28 Stat. 422, chapter 301);

(3) that the Governor of the State in which the dam is located has—

(A) determined the dam has reached its useful life;

(B) determined the dam poses significant health and safety concerns; and

(C) requested Federal support; and

(4) for which the estimated rehabilitation, reconstruction, or replacement, engineering, and permitting costs would exceed $50,000,000.

SEC. 40905. COMPETITIVE GRANT PROGRAM FOR LARGE-SCALE WATER RECYCLING AND REUSE PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a State, Indian Tribe, municipality, irrigation district, water district, wastewater district, or other organization with water or power delivery authority;

(B) a State, regional, or local authority, the members of which include 1 or more organizations with water or power delivery authority; or

(C) an agency established under State law for the joint exercise of powers or a combination of entities described in subparagraphs (A) and (B).

(2) ELIGIBLE PROJECT.—The term "eligible project" means a project described in subsection (c).

(3) PROGRAM.—The term "program" means the grant program established under subsection (b).

(4) RECLAMATION STATE.—The term "Reclamation State" means a State or territory described in the first section of the Act of June 17, 1902 (43 U.S.C. 391; 32 Stat. 388, chapter 1093).

(b) ESTABLISHMENT.—The Secretary shall establish a program to provide grants to eligible entities on a competitive basis for the planning, design, and construction of large-scale water recycling and reuse projects that provide substantial water supply and other benefits to the Reclamation States in accordance with this section.

(c) ELIGIBLE PROJECT.—A project shall be eligible for a grant under this section if the project—

(1) reclaims and reuses—

(A) municipal, industrial, domestic, or agricultural wastewater; or

(B) impaired groundwater or surface water;

(2) has a total estimated cost of $500,000,000 or more;

(3) is located in a Reclamation State;

(4) is constructed, operated, and maintained by an eligible entity; and

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(5) provides a Federal benefit in accordance with the reclamation laws.

(d) PROJECT EVALUATION.—The Secretary may provide a grant to an eligible project under the program if—

(1) the eligible entity determines through the preparation of a feasibility study or equivalent study, and the Secretary concurs, that the eligible project—

(A) is technically and financially feasible;

(B) provides a Federal benefit in accordance with the reclamation laws; and

(C) is consistent with applicable Federal and State laws;

(2) the eligible entity has sufficient non-Federal funding available to complete the eligible project, as determined by the Secretary;

(3) the eligible entity is financially solvent, as determined by the Secretary; and

(4) not later than 30 days after the date on which the Secretary concurs with the determinations under paragraph (1) with respect to the eligible project, the Secretary submits to Congress written notice of the determinations.

(e) PRIORITY.—In providing grants to eligible projects under the program, the Secretary shall give priority to eligible projects that meet 1 or more of the following criteria:

(1) The eligible project provides multiple benefits, including—

(A) water supply reliability benefits for drought-stricken States and communities;

(B) fish and wildlife benefits; and

(C) water quality improvements.

(2) The eligible project is likely to reduce impacts on environmental resources from water projects owned or operated by Federal and State agencies, including through measurable reductions in water diversions from imperiled ecosystems.

(3) The eligible project would advance water management plans across a multi-State area, such as drought contingency plans in the Colorado River Basin.

(4) The eligible project is regional in nature.

(5) The eligible project is collaboratively developed or supported by multiple stakeholders.

(f) FEDERAL ASSISTANCE.—

(1) FEDERAL COST SHARE.—The Federal share of the cost of any project provided a grant under the program shall not exceed 25 percent of the total cost of the eligible project.

(2) TOTAL DOLLAR CAP.—The Secretary shall not impose a total dollar cap on Federal contributions for all eligible individual projects provided a grant under the program.

(3) NONREIMBURSABLE FUNDS.—Any funds provided by the Secretary to an eligible entity under the program shall be considered nonreimbursable.

(4) FUNDING ELIGIBILITY.—An eligible project shall not be considered ineligible for assistance under the program because the eligible project has received assistance under—

(A) the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.);

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(B) section 4(a) of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298) for eligible desalination projects; or

(C) section 1602(e) of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h(e)).

(g) ENVIRONMENTAL LAWS.—In providing a grant for an eligible project under the program, the Secretary shall comply with all applicable environmental laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(h) GUIDANCE.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue guidance on the implementation of the program, including guidelines for the preparation of feasibility studies or equivalent studies by eligible entities.

(i) REPORTS.—

(1) ANNUAL REPORT.—At the end of each fiscal year, the Secretary shall make available on the website of the Department of the Interior an annual report that lists each eligible project for which a grant has been awarded under this section during the fiscal year.

(2) COMPTROLLER GENERAL.—

(A) ASSESSMENT.—The Comptroller General of the United States shall conduct an assessment of the administrative establishment, solicitation, selection, and justification process with respect to the funding of grants under this section.

(B) REPORT.—Not later than 1 year after the date of the initial award of grants under this section, the Comptroller General shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report that describes—

(i) the adequacy and effectiveness of the process by which each eligible project was selected, if applicable; and

(ii) the justification and criteria used for the selection of each eligible project, if applicable.

(j) TREATMENT OF CONVEYANCE.—The Secretary shall consider the planning, design, and construction of a conveyance system for an eligible project to be eligible for grant funding under the program.

(k) TERMINATION OF AUTHORITY.—The authority to carry out this section terminates on the date that is 5 years after the date of enactment of this Act.

SEC. 40906. DROUGHT CONTINGENCY PLAN FUNDING REQUIREMENTS.

(a) IN GENERAL.—Funds made available under section 40901(8) for use in the Lower Colorado River Basin may be used for projects—

(1) to establish or conserve recurring Colorado River water that contributes to supplies in Lake Mead and other Colorado River water reservoirs in the Lower Colorado River Basin; or

(2) to improve the long-term efficiency of operations in the Lower Colorado River Basin.

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(b) LIMITATION.—None of the funds made available under section 40901(8) may be used for the operation of the Yuma Desalting Plant.

(c) EFFECT.—Nothing in section 40901(8) limits existing or future opportunities to augment the water supplies of the Colorado River.

SEC. 40907. MULTI-BENEFIT PROJECTS TO IMPROVE WATERSHED HEALTH.

(a) DEFINITION OF ELIGIBLE APPLICANT.—In this section, the term "eligible applicant" means—

(1) a State;

(2) a Tribal or local government;

(3) an organization with power or water delivery authority;

(4) a regional authority; or

(5) a nonprofit conservation organization.

(b) ESTABLISHMENT OF COMPETITIVE GRANT PROGRAM.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the heads of relevant agencies, shall establish a competitive grant program under which the Secretary shall award grants to eligible applicants for the design, implementation, and monitoring of conservation outcomes of habitat restoration projects that improve watershed health in a river basin that is adversely impacted by a Bureau of Reclamation water project by accomplishing 1 or more of the following:

(1) Ecosystem benefits.

(2) Restoration of native species.

(3) Mitigation against the impacts of climate change to fish and wildlife habitats.

(4) Protection against invasive species.

(5) Restoration of aspects of the natural ecosystem.

(6) Enhancement of commercial, recreational, subsistence, or Tribal ceremonial fishing.

(7) Enhancement of river-based recreation.

(c) REQUIREMENTS.—

(1) IN GENERAL.—In awarding a grant to an eligible applicant under subsection (b), the Secretary—

(A) shall give priority to an eligible applicant that would carry out a habitat restoration project that achieves more than 1 of the benefits described in that subsection; and

(B) may not provide a grant to carry out a habitat restoration project the purpose of which is to meet existing environmental mitigation or compliance obligations under Federal or State law.

(2) COMPLIANCE.—A habitat restoration project awarded a grant under subsection (b) shall comply with all applicable Federal and State laws.

(d) COST-SHARING REQUIREMENT.—The Federal share of the cost of any habitat restoration project that is awarded a grant under subsection (b)—

(1) shall not exceed 50 percent of the cost of the habitat restoration project; or

(2) in the case of a habitat restoration project that provides benefits to ecological or recreational values in which the nonconsumptive water conservation benefit or habitat restoration benefit accounts for at least 75 percent of the cost of the

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habitat restoration project, as determined by the Secretary, shall not exceed 75 percent of the cost of the habitat restoration project.

SEC. 40908. ELIGIBLE DESALINATION PROJECTS.

Section 4(a) of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298) is amended by redesignating the second paragraph (1) (relating to eligible desalination projects) as paragraph (2).

SEC. 40909. CLARIFICATION OF AUTHORITY TO USE CORONAVIRUS FISCAL RECOVERY FUNDS TO MEET A NON-FEDERAL MATCHING REQUIREMENT FOR AUTHORIZED BUREAU OF RECLAMATION WATER PROJECTS.

(a) CORONAVIRUS STATE FISCAL RECOVERY FUND.—Section 602(c) of the Social Security Act (42 U.S.C. 802(c)) is amended by adding at the end the following:

"(4) USE OF FUNDS TO SATISFY NON-FEDERAL MATCHING REQUIREMENTS FOR AUTHORIZED BUREAU OF RECLAMATION WATER PROJECTS.—Funds provided under this section for an authorized Bureau of Reclamation project may be used for purposes of satisfying any non-Federal matching requirement required for the project.".

(b) CORONAVIRUS LOCAL FISCAL RECOVERY FUND.—Section 603(c) of the Social Security Act (42 U.S.C. 803(c)) is amended by adding at the end the following:

"(5) USE OF FUNDS TO SATISFY NON-FEDERAL MATCHING, MAINTENANCE OF EFFORT, OR OTHER EXPENDITURE REQUIREMENT.—Funds provided under this section for an authorized Bureau of Reclamation project may be used for purposes of satisfying any non-Federal matching requirement required for the project.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 9901 of the American Rescue Plan Act of 2021 (Public Law 117–2; 135 Stat. 223).

SEC. 40910. FEDERAL ASSISTANCE FOR GROUNDWATER RECHARGE, AQUIFER STORAGE, AND WATER SOURCE SUBSTITUTION PROJECTS.

(a) IN GENERAL.—The Secretary, at the request of and in coordination with affected Indian Tribes, States (including subdivisions and departments of a State), or a public agency organized pursuant to State law, may provide technical or financial assistance for, participate in, and enter into agreements (including agreements with irrigation entities) for—

(1) groundwater recharge projects;
(2) aquifer storage and recovery projects; or
(3) water source substitution for aquifer protection projects.

(b) LIMITATION.—Nothing in this section authorizes additional technical or financial assistance for, or participation in an agreement for, a surface water storage facility to be constructed or expanded.

(c) REQUIREMENT.—A construction project shall only be eligible for financial assistance under this section if the project meets the conditions for funding under section 40902(a)(2)(C)(ii).

(d) COST SHARING.—Cost sharing for a project funded under this section shall be in accordance with section 40902(b).

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(e) ENVIRONMENTAL LAWS.—In providing funding for a project under this section, the Secretary shall comply with all applicable environmental laws, including —

(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(2) any obligations for fish, wildlife, or water quality protection in permits or licenses granted by a Federal agency or a State; and

(3) any applicable Federal or State laws (including regulations).

(f) AUTHORIZATION BY CONGRESS FOR MAJOR PROJECT CONSTRUCTION.—A project with a total estimated cost of $500,000,000 or more shall only be eligible for construction funding under this section if the project is authorized for construction by an Act of Congress.

TITLE X—AUTHORIZATION OF APPROPRIATIONS FOR ENERGY ACT OF 2020

SEC. 41001. ENERGY STORAGE DEMONSTRATION PROJECTS.

(a) ENERGY STORAGE DEMONSTRATION PROJECTS; PILOT GRANT PROGRAM.—There is authorized to be appropriated to the Secretary to carry out activities under section 3201(c) of the Energy Act of 2020 (42 U.S.C. 17232(c)) $355,000,000 for the period of fiscal years 2022 through 2025.

(b) LONG-DURATION DEMONSTRATION INITIATIVE AND JOINT PROGRAM.—There is authorized to be appropriated to the Secretary to carry out activities under section 3201(d) of the Energy Act of 2020 (42 U.S.C. 17232(d)) $150,000,000 for the period of fiscal years 2022 through 2025.

SEC. 41002. ADVANCED REACTOR DEMONSTRATION PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out activities under section 959A of the Energy Policy Act of 2005 (42 U.S.C. 16279a) pursuant to the funding opportunity announcement of the Department numbered DE–FOA–0002271 for Pathway 1, Advanced Reactor Demonstrations—

(1) $511,000,000 for fiscal year 2022;
(2) $506,000,000 for fiscal year 2023;
(3) $636,000,000 for fiscal year 2024;
(4) $824,000,000 for fiscal year 2025;
(5) $453,000,000 for fiscal year 2026; and
(6) $281,000,000 for fiscal year 2027.

(b) TECHNICAL CORRECTIONS.—

(1) DEFINITION OF ADVANCED NUCLEAR REACTOR.—Section 951(b)(1) of the Energy Policy Act of 2005 (42 U.S.C. 16271(b)(1)) is amended—

(A) in subparagraph (A)(xi), by striking "; and" and inserting a semicolon;

(B) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(C) a radioisotope power system that utilizes heat from radioactive decay to generate energy.".

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(2) NUCLEAR ENERGY UNIVERSITY PROGRAM FUNDING.—Section 954(a)(6) of the Energy Policy Act of 2005 (42 U.S.C. 16274(a)(6)) is amended by inserting ", excluding funds appropriated for the Advanced Reactor Demonstration Program of the Department," after "annually".

SEC. 41003. MINERAL SECURITY PROJECTS.

(a) NATIONAL GEOLOGICAL AND GEOPHYSICAL DATA PRESERVATION PROGRAM.—There are authorized to be appropriated to the Secretary of the Interior to carry out activities under section 351 of the Energy Policy Act of 2005 (42 U.S.C. 15908)—

(1) $8,668,000 for fiscal year 2022; and

(2) $5,000,000 for each of fiscal years 2023 through 2025.

(b) RARE EARTH MINERAL SECURITY.—There are authorized to be appropriated to the Secretary to carry out activities under section 7001(a) of the Energy Act of 2020 (42 U.S.C. 13344(a))—

(1) $23,000,000 for fiscal year 2022;

(2) $24,200,000 for fiscal year 2023;

(3) $25,400,000 for fiscal year 2024;

(4) $26,600,000 for fiscal year 2025; and

(5) $27,800,000 for fiscal year 2026.

(c) CRITICAL MATERIAL INNOVATION, EFFICIENCY, AND ALTERNATIVES.—There are authorized to be appropriated to the Secretary to carry out activities under section 7002(g) of the Energy Act of 2020 (30 U.S.C. 1606(g))—

(1) $230,000,000 for fiscal year 2022;

(2) $100,000,000 for fiscal year 2023; and

(3) $135,000,000 for each of fiscal years 2024 and 2025.

(d) CRITICAL MATERIAL SUPPLY CHAIN RESEARCH FACILITY.—There are authorized to be appropriated to the Secretary to carry out activities under section 7002(h) of the Energy Act of 2020 (30 U.S.C. 1606(h))—

(1) $40,000,000 for fiscal year 2022; and

(2) $35,000,000 for fiscal year 2023.

SEC. 41004. CARBON CAPTURE DEMONSTRATION AND PILOT PROGRAMS.

(a) CARBON CAPTURE LARGE-SCALE PILOT PROJECTS.—There are authorized to be appropriated to the Secretary to carry out activities under section 962(b)(2)(B) of the Energy Policy Act of 2005 (42 U.S.C. 16292(b)(2)(B))—

(1) $387,000,000 for fiscal year 2022;

(2) $200,000,000 for fiscal year 2023;

(3) $200,000,000 for fiscal year 2024; and

(4) $150,000,000 for fiscal year 2025.

(b) CARBON CAPTURE DEMONSTRATION PROJECTS PROGRAM.—There are authorized to be appropriated to the Secretary to carry out activities under section 962(b)(2)(C) of the Energy Policy Act of 2005 (42 U.S.C. 16292(b)(2)(C))—

(1) $937,000,000 for fiscal year 2022;

(2) $500,000,000 for each of fiscal years 2023 and 2024; and

(3) $600,000,000 for fiscal year 2025.

SEC. 41005. DIRECT AIR CAPTURE TECHNOLOGIES PRIZE COMPETITIONS.

(a) PRECOMMERCIAL.—There is authorized to be appropriated to the Secretary to carry out activities under section 969D(e)(2)(A)

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of the Energy Policy Act of 2005 (42 U.S.C. 16298d(e)(2)(A)) $15,000,000 for fiscal year 2022.

(b) COMMERCIAL.—There is authorized to be appropriated to the Secretary to carry out activities under section 969D(e)(2)(B) of the Energy Policy Act of 2005 (42 U.S.C. 16298d(e)(2)(B)) $100,000,000 for fiscal year 2022.

SEC. 41006. WATER POWER PROJECTS.

(a) HYDROPOWER AND MARINE ENERGY.—There are authorized to be appropriated to the Secretary—

(1) to carry out activities under section 634 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17213), $36,000,000 for the period of fiscal years 2022 through 2025; and

(2) to carry out activities under section 635 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17214), $70,400,000 for the period of fiscal years 2022 through 2025.

(b) NATIONAL MARINE ENERGY CENTERS.—There is authorized to be appropriated to the Secretary to carry out activities under section 636 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17215) $40,000,000 for the period of fiscal years 2022 through 2025.

SEC. 41007. RENEWABLE ENERGY PROJECTS.

(a) GEOTHERMAL ENERGY.—There is authorized to be appropriated to the Secretary to carry out activities under section 615(d) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17194(d)) $84,000,000 for the period of fiscal years 2022 through 2025.

(b) WIND ENERGY.—There are authorized to be appropriated to the Secretary—

(1) to carry out activities under section 3003(b)(2) of the Energy Act of 2020 (42 U.S.C. 16237(b)(2)), $60,000,000 for the period of fiscal years 2022 through 2025; and

(2) to carry out activities under section 3003(b)(4) of the Energy Act of 2020 (42 U.S.C. 16237(b)(4)), $40,000,000 for the period of fiscal years 2022 through 2025.

(c) SOLAR ENERGY.—There are authorized to be appropriated to the Secretary—

(1) to carry out activities under section 3004(b)(2) of the Energy Act of 2020 (42 U.S.C. 16238(b)(2)), $40,000,000 for the period of fiscal years 2022 through 2025;

(2) to carry out activities under section 3004(b)(3) of the Energy Act of 2020 (42 U.S.C. 16238(b)(3)), $20,000,000 for the period of fiscal years 2022 through 2025; and

(3) to carry out activities under section 3004(b)(4) of the Energy Act of 2020 (42 U.S.C. 16238(b)(4)), $20,000,000 for the period of fiscal years 2022 through 2025.

(d) CLARIFICATION.—Amounts authorized to be appropriated under subsection (b) are authorized to be a part of, and not in addition to, any amounts authorized to be appropriated by section 3003(b)(7) of the Energy Act of 2020 (42 U.S.C. 16237(b)(7)).

SEC. 41008. INDUSTRIAL EMISSIONS DEMONSTRATION PROJECTS.

There are authorized to be appropriated to the Secretary to carry out activities under section 454(d)(3) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17113(d)(3))—

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(1) $100,000,000 for each of fiscal years 2022 and 2023; and

(2) $150,000,000 for each of fiscal years 2024 and 2025.

TITLE XI—WAGE RATE REQUIREMENTS

SEC. 41101. WAGE RATE REQUIREMENTS.

(a) DAVIS-BACON.—All laborers and mechanics employed by contractors or subcontractors in the performance of construction, alteration, or repair work on a project assisted in whole or in part by funding made available under this division or an amendment made by this division shall be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly referred to as the "Davis-Bacon Act").

(b) AUTHORITY.—With respect to the labor standards specified in subsection (a), the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

TITLE XII—MISCELLANEOUS

SEC. 41201. OFFICE OF CLEAN ENERGY DEMONSTRATIONS.

(a) DEFINITIONS.—In this section:

(1) COVERED PROJECT.—The term "covered project" means a demonstration project of the Department that—

(A) receives or is eligible to receive funding from the Secretary; and

(B) is authorized under—

(i) this division; or

(ii) the Energy Act of 2020 (Public Law 116–260; 134 Stat. 1182).

(2) PROGRAM.—The term "program" means the program established under subsection (b).

(b) ESTABLISHMENT.—The Secretary, in coordination with the heads of relevant program offices of the Department, shall establish a program to conduct project management and oversight of covered projects, including by—

(1) conducting evaluations of proposals for covered projects before the selection of a covered project for funding;

(2) conducting independent oversight of the execution of a covered project after funding has been awarded for that covered project; and

(3) ensuring a balanced portfolio of investments in covered projects.

(c) DUTIES.—The Secretary shall appoint a head of the program who shall, in coordination with the heads of relevant program offices of the Department—

(1) evaluate proposals for covered projects, including scope, technical specifications, maturity of design, funding profile, estimated costs, proposed schedule, proposed technical and financial milestones, and potential for commercial success based on economic and policy projections;

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(2) develop independent cost estimates for a proposal for a covered project, if appropriate;

(3) recommend to the head of a program office of the Department, as appropriate, whether to fund a proposal for a covered project;

(4) oversee the execution of covered projects that receive funding from the Secretary, including reconciling estimated costs as compared to actual costs;

(5) conduct reviews of ongoing covered projects, including—

(A) evaluating the progress of a covered project based on the proposed schedule and technical and financial milestones; and

(B) providing the evaluations under subparagraph (A) to the Secretary; and

(6) assess the lessons learned in overseeing covered projects and implement improvements in the process of evaluating and overseeing covered projects.

(d) EMPLOYEES.—To carry out the program, the Secretary may hire appropriate personnel to perform the duties of the program.

(e) COORDINATION.—In carrying out the program, the head of the program shall coordinate with—

(1) project management and acquisition management entities with the Department, including the Office of Project Management; and

(2) professional organizations in project management, construction, cost estimation, and other relevant fields.

(f) REPORTS.—

(1) REPORT BY SECRETARY.—The Secretary shall include in each updated technology transfer execution plan submitted under subsection (h)(2) of section 1001 of the Energy Policy Act of 2005 (42 U.S.C. 16391) information on the implementation of and progress made under the program, including, for the year covered by the report—

(A) the covered projects under the purview of the program; and

(B) the review of each covered project carried out under subsection (c)(5).

(2) REPORT BY COMPTROLLER GENERAL.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report evaluating the operation of the program, including—

(A) a description of the processes and procedures used by the program to evaluate proposals of covered projects and the oversight of covered projects; and

(B) any recommended changes in the program, including changes to—

(i) the processes and procedures described in subparagraph (A); and

(ii) the structure of the program, for the purpose of better carrying out the program.

(g) TECHNICAL AMENDMENT.—Section 1001 of the Energy Policy Act of 2005 (42 U.S.C. 16391) is amended by redesignating the second subsections (f) (relating to planning and reporting) and

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(g) (relating to additional technology transfer programs) as subsections (h) and (i), respectively.

SEC. 41202. EXTENSION OF SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT OF 2000.

(a) DEFINITION OF FULL FUNDING AMOUNT.—Section 3(11) of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7102(11)) is amended by striking subparagraphs (D) and (E) and inserting the following:

"(D) for fiscal year 2017, the amount that is equal to 95 percent of the full funding amount for fiscal year 2015;

"(E) for each of fiscal years 2018 through 2020, the amount that is equal to 95 percent of the full funding amount for the preceding fiscal year; and

"(F) for fiscal year 2021 and each fiscal year thereafter, the amount that is equal to the full funding amount for fiscal year 2017.".

(b) SECURE PAYMENTS FOR STATES AND COUNTIES CONTAINING FEDERAL LAND.—

(1) SECURE PAYMENTS.—Section 101 of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7111) is amended, in subsections (a) and (b), by striking "2015, 2017, 2018, 2019, and 2020" each place it appears and inserting "2015 and 2017 through 2023".

(2) DISTRIBUTION OF PAYMENTS TO ELIGIBLE COUNTIES.—Section 103(d)(2) of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7113(d)(2)) is amended by striking "2020" and inserting "2023".

(c) PILOT PROGRAM TO STREAMLINE NOMINATION OF MEMBERS OF RESOURCE ADVISORY COMMITTEES.—Section 205 of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7125) is amended by striking subsection (g) and inserting the following:

"(g) RESOURCE ADVISORY COMMITTEE APPOINTMENT PILOT PROGRAMS.—

"(1) DEFINITIONS.—In this subsection:

"(A) APPLICABLE DESIGNEE.—The term 'applicable designee' means the applicable regional forester.

"(B) NATIONAL PILOT PROGRAM.—The term 'national pilot program' means the national pilot program established under paragraph (4)(A).

"(C) REGIONAL PILOT PROGRAM.—The term 'regional pilot program' means the regional pilot program established under paragraph (3)(A).

"(2) ESTABLISHMENT OF PILOT PROGRAMS.—In accordance with paragraphs (3) and (4), the Secretary concerned shall carry out 2 pilot programs to appoint members of resource advisory committees.

"(3) REGIONAL PILOT PROGRAM.—

"(A) IN GENERAL.—The Secretary concerned shall carry out a regional pilot program to allow an applicable designee to appoint members of resource advisory committees.

"(B) GEOGRAPHIC LIMITATION.—The regional pilot program shall only apply to resource advisory committees chartered in—

"(i) the State of Montana; and

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"(ii) the State of Arizona.

"(C) RESPONSIBILITIES OF APPLICABLE DESIGNEE.—

"(i) REVIEW.—Before appointing a member of a resource advisory committee under the regional pilot program, an applicable designee shall conduct the review and analysis that would otherwise be conducted for an appointment to a resource advisory committee if the regional pilot program was not in effect, including any review and analysis with respect to civil rights and budgetary requirements.

"(ii) SAVINGS CLAUSE.—Nothing in this paragraph relieves an applicable designee from any requirement developed by the Secretary concerned for making an appointment to a resource advisory committee that is in effect on December 20, 2018, including any requirement for advertising a vacancy.

"(4) NATIONAL PILOT PROGRAM.—

"(A) IN GENERAL.—The Secretary concerned shall carry out a national pilot program to allow the Chief of the Forest Service or the Director of the Bureau of Land Management, as applicable, to submit to the Secretary concerned nominations of individuals for appointment as members of resource advisory committees.

"(B) APPOINTMENT.—Under the national pilot program, subject to subparagraph (C), not later than 30 days after the date on which a nomination is transmitted to the Secretary concerned under subparagraph (A), the Secretary concerned shall—

"(i) appoint the nominee to the applicable resource advisory committee; or

"(ii) reject the nomination.

"(C) AUTOMATIC APPOINTMENT.—If the Secretary concerned does not act on a nomination in accordance with subparagraph (B) by the date described in that subparagraph, the nominee shall be deemed appointed to the applicable resource advisory committee.

"(D) GEOGRAPHIC LIMITATION.—The national pilot program shall apply to a resource advisory committee chartered in any State other than—

"(i) the State of Montana; or

"(ii) the State of Arizona.

"(E) SAVINGS CLAUSE.—Nothing in this paragraph relieves the Secretary concerned from any requirement relating to an appointment to a resource advisory committee, including any requirement with respect to civil rights or advertising a vacancy.

"(5) TERMINATION OF EFFECTIVENESS.—The authority provided under this subsection terminates on October 1, 2023.

"(6) REPORT TO CONGRESS.—Not later 180 days after the date described in paragraph (5), the Secretary concerned shall submit to Congress a report that includes—

"(A) with respect to appointments made under the regional pilot program compared to appointments made under the national pilot program, a description of the extent to which—

"(i) appointments were faster or slower; and

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"(ii) the requirements described in paragraph (3)(C)(i) differ; and

"(B) a recommendation with respect to whether Congress should terminate, continue, modify, or expand the pilot programs.".

(d) EXTENSION OF AUTHORITY TO CONDUCT SPECIAL PROJECTS ON FEDERAL LAND.—

(1) EXISTING ADVISORY COMMITTEES.—Section 205(a)(4) of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7125(a)(4)) is amended by striking "December 20, 2021" each place it appears and inserting "December 20, 2023".

(2) EXTENSION OF AUTHORITY.—Section 208 of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7128) is amended—

(A) in subsection (a), by striking "2022" and inserting "2025"; and

(B) in subsection (b), by striking "2023" and inserting "2026".

(e) ACCESS TO BROADBAND AND OTHER TECHNOLOGY.—Section 302(a) of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7142(a)) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(5) to provide or expand access to—

"(A) broadband telecommunications services at local schools; or

"(B) the technology and connectivity necessary for students to use a digital learning tool at or outside of a local school campus.".

(f) EXTENSION OF AUTHORITY TO EXPEND COUNTY FUNDS.—Section 304 of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7144) is amended—

(1) in subsection (a), by striking "2022" and inserting "2025"; and

(2) in subsection (b), by striking "2023" and inserting "2026".

(g) AMOUNTS OBLIGATED BUT UNSPENT; PROHIBITION ON USE OF FUNDS.—Title III of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7141 et seq.) is amended—

(1) by redesignating section 304 as section 305; and

(2) by inserting after section 303 the following:

"SEC. 304. AMOUNTS OBLIGATED BUT UNSPENT; PROHIBITION ON USE OF FUNDS.

"(a) AMOUNTS OBLIGATED BUT UNSPENT.—Any county funds that were obligated by the applicable participating county before October 1, 2017, but are unspent on October 1, 2020—

"(1) may, at the option of the participating county, be deemed to have been reserved by the participating county on October 1, 2020, for expenditure in accordance with this title; and

"(2)(A) may be used by the participating county for any authorized use under section 302(a); and

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"(B) on a determination by the participating county under subparagraph (A) to use the county funds, shall be available for projects initiated after October 1, 2020, subject to section 305.

"(b) PROHIBITION ON USE OF FUNDS.—Notwithstanding any other provision of law, effective beginning on the date of enactment of the Infrastructure Investment and Jobs Act, no county funds made available under this title may be used by any participating county for any lobbying activity, regardless of the purpose for which the funds are obligated on or before that date.".

DIVISION E—DRINKING WATER AND WASTEWATER INFRASTRUCTURE

SEC. 50001. SHORT TITLE.

This division may be cited as the "Drinking Water and Wastewater Infrastructure Act of 2021".

SEC. 50002. DEFINITION OF ADMINISTRATOR.

In this division, the term "Administrator" means the Administrator of the Environmental Protection Agency.

TITLE I—DRINKING WATER

SEC. 50101. TECHNICAL ASSISTANCE AND GRANTS FOR EMERGENCIES AFFECTING PUBLIC WATER SYSTEMS.

Section 1442 of the Safe Drinking Water Act (42 U.S.C. 300j–1) is amended—

(1) in subsection (a), by adding at the end the following:

"(11) COMPLIANCE EVALUATION.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Administrator shall—

"(i) evaluate, based on the compliance data found in the Safe Drinking Water Information System of the Administrator, the compliance of community water systems and wastewater systems with environmental, health, and safety requirements under this title, including water quality sampling, testing, and reporting requirements; and

"(ii) submit to Congress a report describing trends seen as a result of the evaluation under clause (i), including trends that demonstrate how the characteristics of community water systems and wastewater systems correlate to trends in compliance or noncompliance with the requirements described in that clause.

"(B) REQUIREMENT.—To the extent practicable, in carrying out subparagraph (A), the Administrator shall determine whether, in aggregate, community water systems and wastewater systems maintain asset management plans.";

(2) in subsection (b), in the first sentence—

(A) by inserting "(including an emergency situation resulting from a cybersecurity event)" after "emergency situation"; and

(B) by inserting ", including a threat to public health resulting from contaminants, such as, but not limited to,

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heightened exposure to lead in drinking water" after "public health";

(3) by striking subsection (d) and inserting the following:

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out subsection (b) $35,000,000 for each of fiscal years 2022 through 2026.";

(4) in subsection (e), by striking paragraph (5) and inserting the following:

"(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this subsection $15,000,000 for each of fiscal years 2022 through 2026.";

(5) by redesignating subsection (f) as subsection (g); and

(6) by inserting after subsection (e) the following:

"(f) STATE-BASED NONPROFIT ORGANIZATIONS.—

"(1) IN GENERAL.—The Administrator may provide technical assistance consistent with the authority provided under subsection (e) to State-based nonprofit organizations that are governed by community water systems.

"(2) COMMUNICATION.—Each State-based nonprofit organization that receives funding under paragraph (1) shall, before using that funding to undertake activities to carry out this subsection, consult with the State in which the assistance is to be expended or otherwise made available.".

SEC. 50102. DRINKING WATER STATE REVOLVING LOAN FUNDS.

(a) DRINKING WATER STATE REVOLVING FUNDS CAPITALIZATION GRANT REAUTHORIZATION.—Section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12) is amended—

(1) in subsection (a)(4)(A), by striking "During fiscal years 2019 through 2023, funds" and inserting "Funds";

(2) in subsection (m)(1) —

(A) in subparagraph (B), by striking "and";

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(D) $2,400,000,000 for fiscal year 2022;

"(E) $2,750,000,000 for fiscal year 2023;

"(F) $3,000,000,000 for fiscal year 2024; and

"(G) $3,250,000,000 for each of fiscal years 2025 and 2026."; and

(3) in subsection (q), by striking "2016 through 2021" and inserting "2022 through 2026".

(b) ASSISTANCE FOR DISADVANTAGED COMMUNITIES.—Section 1452(d) of the Safe Drinking Water Act (42 U.S.C. 300j–12(d)) is amended—

(1) in paragraph (1)—

(A) by striking "Notwithstanding any" and inserting the following:

"(A) IN GENERAL.—Notwithstanding any";

(B) in subparagraph (A) (as so designated), by inserting ", grants, negative interest loans, other loan forgiveness, and through buying, refinancing, or restructuring debt" after "forgiveness of principal"; and

(C) by adding at the end the following:

"(B) EXCLUSION.—A loan from a State loan fund with an interest rate equal to or greater than 0 percent shall

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not be considered additional subsidization for purposes of this subsection."; and

(2) in paragraph (2), by striking subparagraph (B) and inserting the following:

"(B) to the extent that there are sufficient applications for loans to communities described in paragraph (1), may not be less than 12 percent.".

SEC. 50103. SOURCE WATER PETITION PROGRAM.

Section 1454 of the Safe Drinking Water Act (42 U.S.C. 300j–14) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(A), in the matter preceding clause (i), by striking "political subdivision of a State," and inserting "political subdivision of a State (including a county that is designated by the State to act on behalf of an unincorporated area within that county, with the agreement of that unincorporated area),";

(B) in paragraph (4)(D)(i), by inserting "(including a county that is designated by the State to act on behalf of an unincorporated area within that county)" after "of the State"; and

(C) by adding at the end the following:

"(5) SAVINGS PROVISION.—Unless otherwise provided within the agreement, an agreement between an unincorporated area and a county for the county to submit a petition under paragraph (1)(A) on behalf of the unincorporated area shall not authorize the county to act on behalf of the unincorporated area in any matter not within a program under this section."; and

(2) in subsection (e), in the first sentence, by striking "2021" and inserting "2026".

SEC. 50104. ASSISTANCE FOR SMALL AND DISADVANTAGED COMMUNITIES.

(a) EXISTING PROGRAMS.—Section 1459A of the Safe Drinking Water Act (42 U.S.C. 300j–19a) is amended—

(1) in subsection (b)(2)—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(D) the purchase of point-of-entry or point-of-use filters and filtration systems that are certified by a third party using science-based test methods for the removal of contaminants of concern;

"(E) investments necessary for providing accurate and current information about—

"(i) the need for filtration and filter safety, including proper use and maintenance practices; and

"(ii) the options for replacing lead service lines (as defined in section 1459B(a)) and removing other sources of lead in water; and

"(F) entering into contracts, including contracts with nonprofit organizations that have water system technical expertise, to assist—

"(i) an eligible entity; or

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"(ii) the State of an eligible entity, on behalf of that eligible entity.";

(2) in subsection (c), in the matter preceding paragraph (1), by striking "An eligible entity" and inserting "Except for purposes of subsections (j) and (m), an eligible entity";

(3) in subsection (g)(1), by striking "to pay not less than 45 percent" and inserting "except as provided in subsection (l)(5) and subject to subsection (h), to pay not less than 10 percent";

(4) by striking subsection (k) and inserting the following:

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsections (a) through (j)—

"(1) $70,000,000 for fiscal year 2022;

"(2) $80,000,000 for fiscal year 2023;

"(3) $100,000,000 for fiscal year 2024;

"(4) $120,000,000 for fiscal year 2025; and

"(5) $140,000,000 for fiscal year 2026."; and

(5) in subsection (l)—

(A) in paragraph (2)—

(i) by striking "The Administrator may" and inserting "The Administrator shall"; and

(ii) by striking "fiscal years 2019 and 2020" and inserting "fiscal years 2022 through 2026";

(B) in paragraph (5), by striking "$4,000,000 for each of fiscal years 2019 and 2020" and inserting "$25,000,000 for each of fiscal years 2022 through 2026";

(C) by redesignating paragraph (5) as paragraph (6); and

(D) by inserting after paragraph (4) the following:

"(5) FEDERAL SHARE FOR SMALL, RURAL, AND DISADVANTAGED COMMUNITIES.—

"(A) IN GENERAL.—Subject to subparagraph (B), with respect to a program or project that serves an eligible entity and is carried out using a grant under this subsection, the Federal share of the cost of the program or project shall be 90 percent.

"(B) WAIVER.—The Administrator may increase the Federal share under subparagraph (A) to 100 percent if the Administrator determines that an eligible entity is unable to pay, or would experience significant financial hardship if required to pay, the non-Federal share.".

(b) CONNECTION TO PUBLIC WATER SYSTEMS.—Section 1459A of the Safe Drinking Water Act (42 U.S.C. 300j–19a) is amended by adding at the end the following:

"(m) CONNECTION TO PUBLIC WATER SYSTEMS.—

"(1) DEFINITIONS.—In this subsection:

"(A) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(i) an owner or operator of a public water system that assists or is seeking to assist eligible individuals with connecting the household of the eligible individual to the public water system; or

"(ii) a nonprofit entity that assists or is seeking to assist eligible individuals with the costs associated with connecting the household of the eligible individual to a public water system.

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"(B) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' has the meaning given the term in section 603(j) of the Federal Water Pollution Control Act (33 U.S.C. 1383(j)).

"(C) PROGRAM.—The term 'program' means the competitive grant program established under paragraph (2).

"(2) ESTABLISHMENT.—Subject to the availability of appropriations, the Administrator shall establish a competitive grant program for the purpose of improving the general welfare under which the Administrator awards grants to eligible entities to provide funds to assist eligible individuals in covering the costs incurred by the eligible individual in connecting the household of the eligible individual to a public water system.

"(3) APPLICATION.—An eligible entity seeking a grant under the program shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require.

"(4) VOLUNTARY CONNECTION.—Before providing funds to an eligible individual for the costs described in paragraph (2), an eligible entity shall ensure and certify to the Administrator that—

"(A) the eligible individual is voluntarily seeking connection to the public water system;

"(B) if the eligible entity is not the owner or operator of the public water system to which the eligible individual seeks to connect, the public water system to which the eligible individual seeks to connect has agreed to the connection; and

"(C) the connection of the household of the eligible individual to the public water system meets all applicable local and State regulations, requirements, and codes.

"(5) REPORT.—Not later than 3 years after the date of enactment of this subsection, the Administrator shall submit to Congress a report that describes the implementation of the program, which shall include a description of the use and deployment of amounts made available under the program.

"(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the program $20,000,000 for each of fiscal years 2022 through 2026.".

(c) COMPETITIVE GRANT PILOT PROGRAM.—Section 1459A of the Safe Drinking Water Act (42 U.S.C. 300j–19a) (as amended by subsection (b)) is amended by adding at the end the following:

"(n) STATE COMPETITIVE GRANTS FOR UNDERSERVED COMMUNITIES.—

"(1) IN GENERAL.—In addition to amounts authorized to be appropriated under subsection (k), there is authorized to be appropriated to carry out subsections (a) through (j) $50,000,000 for each of fiscal years 2022 through 2026 in accordance with paragraph (2).

"(2) COMPETITIVE GRANTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, the Administrator shall distribute amounts made available under paragraph (1) to States through a competitive grant program.

"(B) APPLICATIONS.—To seek a grant under the competitive grant program under subparagraph (A), a State

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shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require.

"(C) CRITERIA.—In selecting recipients of grants under the competitive grant program under subparagraph (A), the Administrator shall establish criteria that give priority to States with a high proportion of underserved communities that meet the condition described in subsection (a)(2)(A).

"(3) REPORT.—Not later than 2 years after the date of enactment of this subsection, the Administrator shall submit to Congress a report that describes the implementation of the competitive grant program under paragraph (2)(A), which shall include a description of the use and deployment of amounts made available under the competitive grant program.

"(4) SAVINGS PROVISION.—Nothing in this paragraph affects the distribution of amounts made available under subsection (k), including any methods used by the Administrator for distribution of amounts made available under that subsection as in effect on the day before the date of enactment of this subsection.".

SEC. 50105. REDUCING LEAD IN DRINKING WATER.

Section 1459B of the Safe Drinking Water Act (42 U.S.C. 300j–19b) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking subparagraph (D) and inserting the following:

"(D) a qualified nonprofit organization with experience in lead reduction, as determined by the Administrator; and";

(B) in paragraph (2)(A)—

(i) in clause (i), by striking "publicly owned"; and

(ii) by striking clause (iii) and inserting the following:

"(iii) providing assistance to eligible entities to replace lead service lines, with priority for disadvantaged communities based on the affordability criteria established by the applicable State under section 1452(d)(3), low-income homeowners, and landlords or property owners providing housing to low-income renters."; and

(C) in paragraph (3), by striking "an individual provided";

(2) in subsection (b)—

(A) in paragraph (5)—

(i) in subparagraph (A), by striking "to provide assistance" and all that follows through the period at the end and inserting "to replace lead service lines, with first priority given to assisting disadvantaged communities based on the affordability criteria established by the applicable State under section 1452(d)(3), low-income homeowners, and landlords or property owners providing housing to low-income renters."; and

(ii) in subparagraph (B), by striking "line" and inserting "lines"; and

(B) in paragraph (6)—

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(i) in subparagraph (A), by striking "any publicly owned portion of";

(ii) in subparagraph (C), in the matter preceding clause (i)—

(I) by striking "may" and inserting "shall";

(II) by inserting "and may, for other homeowners," after "low-income homeowner,"; and

(III) by striking "a cost that" and all that follows through the semicolon at the end of clause (ii) and inserting "no cost to the homeowner;";

(iii) in subparagraph (D), by striking "and" at the end;

(iv) in subparagraph (E), by striking "other options" and all that follows through the period at the end and inserting "feasible alternatives for reducing the concentration of lead in drinking water, such as corrosion control; and"; and

(v) by adding at the end the following:

"(F) shall notify the State of any planned replacement of lead service lines under this program and coordinate, where practicable, with other relevant infrastructure projects.";

(3) in subsection (d)—

(A) by inserting "(except for subsection (d))" after "this section"; and

(B) by striking "$60,000,000 for each of fiscal years 2017 through 2021" and inserting "$100,000,000 for each of fiscal years 2022 through 2026";

(4) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(5) by inserting after subsection (c) the following:

"(d) LEAD INVENTORYING UTILIZATION GRANT PILOT PROGRAM.—

"(1) DEFINITIONS.—In this subsection:

"(A) ELIGIBLE ENTITY.—The term 'eligible entity' means a municipality that is served by a community water system or a nontransient noncommunity water system in which not less than 30 percent of the service lines are known, or suspected, to contain lead, based on available data, information, or resources, including existing lead inventorying.

"(B) PILOT PROGRAM.—The term 'pilot program' means the pilot program established under paragraph (2).

"(2) ESTABLISHMENT.—The Administrator shall establish a pilot program under which the Administrator shall provide grants to eligible entities to carry out lead reduction projects that are demonstrated to exist or are suspected to exist, based on available data, information, or resources, including existing lead inventorying of those eligible entities.

"(3) SELECTION.—

"(A) APPLICATION.—To be eligible to receive a grant under the pilot program, an eligible entity shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require.

"(B) PRIORITIZATION.—In selecting recipients under the pilot program, the Administrator shall give priority to—

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"(i) an eligible entity that meets the affordability criteria of the applicable State established under section 1452(d)(3); and

"(ii) an eligible entity that is located in an area other than a State that has established affordability criteria under section 1452(d)(3).

"(4) REPORT.—Not later 2 years after the Administrator first awards a grant under the pilot program, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing—

"(A) the recipients of grants under the pilot program;

"(B) the existing lead inventorying that was available to recipients of grants under the pilot program; and

"(C) how useful and accurate the lead inventorying described in subparagraph (B) was in locating lead service lines of the eligible entity.

"(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the pilot program $10,000,000, to remain available until expended.".

SEC. 50106. OPERATIONAL SUSTAINABILITY OF SMALL PUBLIC WATER SYSTEMS.

Part E of the Safe Drinking Water Act (42 U.S.C. 300j et seq.) is amended by adding at the end the following:

"SEC. 1459E. OPERATIONAL SUSTAINABILITY OF SMALL PUBLIC WATER SYSTEMS.

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(A) a State;

"(B) a unit of local government;

"(C) a public corporation established by a unit of local government to provide water service;

"(D) a nonprofit corporation, public trust, or cooperative association that owns or operates a public water system;

"(E) an Indian Tribe that owns or operates a public water system;

"(F) a nonprofit organization that provides technical assistance to public water systems; and

"(G) a Tribal consortium.

"(2) OPERATIONAL SUSTAINABILITY.—The term 'operational sustainability' means the ability to improve the operation of a small system through the identification and prevention of potable water loss due to leaks, breaks, and other metering or infrastructure failures.

"(3) PROGRAM.—The term 'program' means the grant program established under subsection (b).

"(4) SMALL SYSTEM.—The term 'small system', for the purposes of this section, means a public water system that—

"(A) serves fewer than 10,000 people; and

"(B) is owned or operated by—

"(i) a unit of local government;

"(ii) a public corporation;

"(iii) a nonprofit corporation;

"(iv) a public trust;

"(v) a cooperative association; or

"(vi) an Indian Tribe.

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"(b) ESTABLISHMENT.—Subject to the availability of appropriations, the Administrator shall establish a program to award grants to eligible entities for the purpose of improving the operational sustainability of 1 or more small systems.

"(c) APPLICATIONS.—To be eligible to receive a grant under the program, an eligible entity shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require, including—

"(1) a proposal of the project to be carried out using grant funds under the program;

"(2) documentation provided by the eligible entity describing the deficiencies or suspected deficiencies in operational sustainability of 1 or more small systems that are to be addressed through the proposed project;

"(3) a description of how the proposed project will improve the operational sustainability of 1 or more small systems;

"(4) a description of how the improvements described in paragraph (3) will be maintained beyond the life of the proposed project, including a plan to maintain and update any asset data collected as a result of the proposed project; and

"(5) any additional information the Administrator may require.

"(d) ADDITIONAL REQUIRED INFORMATION.—Before the award of funds for a grant under the program to a grant recipient, the grant recipient shall submit to the Administrator—

"(1) if the grant recipient is located in a State that has established a State drinking water treatment revolving loan fund under section 1452, a copy of a written agreement between the grant recipient and the State in which the grant recipient agrees to provide a copy of any data collected under the proposed project to the State agency administering the State drinking water treatment revolving loan fund (or a designee); or

"(2) if the grant recipient is located in an area other than a State that has established a State drinking water treatment revolving loan fund under section 1452, a copy of a written agreement between the grant recipient and the Administrator in which the eligible entity agrees to provide a copy of any data collected under the proposed project to the Administrator (or a designee).

"(e) USE OF FUNDS.—An eligible entity that receives a grant under the program shall use the grant funds to carry out projects that improve the operational sustainability of 1 or more small systems through—

"(1) the development of a detailed asset inventory, which may include drinking water sources, wells, storage, valves, treatment systems, distribution lines, hydrants, pumps, controls, and other essential infrastructure;

"(2) the development of an infrastructure asset map, including a map that uses technology such as—

"(A) geographic information system software; and

"(B) global positioning system software;

"(3) the deployment of leak detection technology;

"(4) the deployment of metering technology;

"(5) training in asset management strategies, techniques, and technologies for appropriate staff employed by—

"(A) the eligible entity; or

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"(B) the small systems for which the grant was received;

"(6) the deployment of strategies, techniques, and technologies to enhance the operational sustainability and effective use of water resources through water reuse; and

"(7) the development or deployment of other strategies, techniques, or technologies that the Administrator may determine to be appropriate under the program.

"(f) COST SHARE.—

"(1) IN GENERAL.—Subject to paragraph (2), the Federal share of the cost of a project carried out using a grant under the program shall be 90 percent of the total cost of the project.

"(2) WAIVER.—The Administrator may increase the Federal share under paragraph (1) to 100 percent.

"(g) REPORT.—Not later than 2 years after the date of enactment of this section, the Administrator shall submit to Congress a report that describes the implementation of the program, which shall include a description of the use and deployment of amounts made available under the program.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 2022 through 2026.".

SEC. 50107. MIDSIZE AND LARGE DRINKING WATER SYSTEM INFRASTRUCTURE RESILIENCE AND SUSTAINABILITY PROGRAM.

Part E of the Safe Drinking Water Act (42 U.S.C. 300j et seq.) (as amended by section 50106) is amended by adding at the end the following:

"SEC. 1459F. MIDSIZE AND LARGE DRINKING WATER SYSTEM INFRASTRUCTURE RESILIENCE AND SUSTAINABILITY PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means a public water system that serves a community with a population of 10,000 or more.

"(2) NATURAL HAZARD; RESILIENCE.—The terms 'resilience' and 'natural hazard' have the meanings given those terms in section 1433(h).

"(3) RESILIENCE AND SUSTAINABILITY PROGRAM.—The term 'resilience and sustainability program' means the Midsize and Large Drinking Water System Infrastructure Resilience and Sustainability Program established under subsection (b).

"(b) ESTABLISHMENT.—The Administrator shall establish and carry out a program, to be known as the 'Midsize and Large Drinking Water System Infrastructure Resilience and Sustainability Program', under which the Administrator, subject to the availability of appropriations for the resilience and sustainability program, shall award grants to eligible entities for the purpose of—

"(1) increasing resilience to natural hazards and extreme weather events; and

"(2) reducing cybersecurity vulnerabilities.

"(c) USE OF FUNDS.—An eligible entity may only use grant funds received under the resilience and sustainability program to

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assist in the planning, design, construction, implementation, operation, or maintenance of a program or project that increases resilience to natural hazards and extreme weather events, or reduces cybersecurity vulnerabilities, through—

"(1) the conservation of water or the enhancement of water-use efficiency;

"(2) the modification or relocation of existing drinking water system infrastructure made, or that is at risk of being, significantly impaired by natural hazards or extreme weather events, including risks to drinking water from flooding;

"(3) the design or construction of new or modified desalination facilities to serve existing communities;

"(4) the enhancement of water supply through the use of watershed management and source water protection;

"(5) the enhancement of energy efficiency or the use and generation of renewable energy in the conveyance or treatment of drinking water;

"(6) the development and implementation of measures—

"(A) to increase the resilience of the eligible entity to natural hazards and extreme weather events; or

"(B) to reduce cybersecurity vulnerabilities;

"(7) the conservation of water or the enhancement of a water supply through the implementation of water reuse measures; or

"(8) the formation of regional water partnerships to collaboratively address documented water shortages.

"(d) APPLICATION.—To seek a grant under the resilience and sustainability program, an eligible entity shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require, including—

"(1) a proposal of the program or project to be planned, designed, constructed, implemented, operated, or maintained by the eligible entity;

"(2) an identification of the natural hazard risks, extreme weather events, or potential cybersecurity vulnerabilities, as applicable, to be addressed by the proposed program or project;

"(3) documentation prepared by a Federal, State, regional, or local government agency of the natural hazard risk, potential cybersecurity vulnerability, or risk for extreme weather events to the area where the proposed program or project is to be located;

"(4) a description of any recent natural hazards, cybersecurity events, or extreme weather events that have affected the community water system of the eligible entity;

"(5) a description of how the proposed program or project would improve the performance of the community water system of the eligible entity under the anticipated natural hazards, cybersecurity vulnerabilities, or extreme weather events; and

"(6) an explanation of how the proposed program or project is expected—

"(A) to enhance the resilience of the community water system of the eligible entity to the anticipated natural hazards or extreme weather events; or

"(B) to reduce cybersecurity vulnerabilities.

"(e) REPORT.—Not later than 2 years after the date of enactment of this section, the Administrator shall submit to Congress a report

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that describes the implementation of the resilience and sustainability program, which shall include a description of the use and deployment of amounts made available to carry out the resilience and sustainability program.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to carry out the resilience and sustainability program $50,000,000 for each of fiscal years 2022 through 2026.

"(2) USE OF FUNDS.—Of the amounts made available under paragraph (1) for grants to eligible entities under the resilience and sustainability program—

"(A) 50 percent shall be used to provide grants to eligible entities that serve a population of—

"(i) equal to or greater than 10,000; and

"(ii) fewer than 100,000; and

"(B) 50 percent shall be used to provide grants to eligible entities that serve a population equal to or greater than 100,000.

"(3) ADMINISTRATIVE COSTS.—Of the amounts made available under paragraph (1), not more than 2 percent may be used by the Administrator for the administrative costs of carrying out the resilience and sustainability program.".

SEC. 50108. NEEDS ASSESSMENT FOR NATIONWIDE RURAL AND URBAN LOW-INCOME COMMUNITY WATER ASSISTANCE.

(a) DEFINITIONS.—In this section and section 50109:

(1) COMMUNITY WATER SYSTEM.—The term "community water system" has the meaning given the term in section 1401 of the Safe Drinking Water Act (42 U.S.C. 300f).

(2) LARGE WATER SERVICE PROVIDER.—The term "large water service provider" means a community water system, treatment works, or municipal separate storm sewer system that serves more than 100,000 people.

(3) MEDIUM WATER SERVICE PROVIDER.—The term "medium water service provider" means a community water system, treatment works, or municipal separate storm sewer system that serves more than 10,000 people and not more than 100,000 people.

(4) NEED.—The term "need", with respect to a qualifying household, means the expenditure of a disproportionate amount of household income on access to public drinking water or wastewater services.

(5) QUALIFYING HOUSEHOLD.—The term "qualifying household" means a household that—

(A) includes an individual who is—

(i) the holder of an account for drinking water or wastewater service that is provided to that household by a large water service provider, a medium water service provider, or a rural water service provider; or

(ii) separately billed by a landlord that holds an account with a large water service provider, a medium water service provider, or a rural water service provider for the cost of drinking water or wastewater service provided to that household by the respective large water service provider, medium water service provider, or rural water service provider; and

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(B) is determined—

(i) by a large water service provider, a medium water service provider, or a rural water service provider to be eligible for assistance through a low-income ratepayer assistance program;

(ii) by the Governor of the State in which the household is located to be low-income, based on the affordability criteria established by the State under section 1452(d)(3) of the Safe Drinking Water Act (42 U.S.C. 300j–12(d)(3));

(iii) by the Administrator to experience drinking water and wastewater service costs that exceed the metrics of affordability established in the most recent guidance of the Administrator entitled "Financial Capability Assessment Guidance"; or

(iv) in the case of a household serviced by a rural water service provider, by the State in which the household is located to have an annual income that does not exceed the greater of—

(I) an amount equal to 150 percent of the poverty level of that State; and

(II) an amount equal to 60 percent of the State median income for that State.

(6) RURAL WATER SERVICE PROVIDER.—The term "rural water service provider" means a community water system, treatment works, or municipal separate storm sewer system that serves not more than 10,000 people.

(7) TREATMENT WORKS.—The term "treatment works" has the meaning given the term in section 212 of the Federal Water Pollution Control Act (33 U.S.C. 1292).

(b) STUDY; REPORT.—

(1) IN GENERAL.—The Administrator shall conduct, and submit to Congress a report describing the results of, a study that examines the prevalence throughout the United States of municipalities, public entities, or Tribal governments that—

(A) are serviced by rural water service providers, medium water service providers, or large water service providers that service a disproportionate percentage, as determined by the Administrator, of qualifying households with need; or

(B) as determined by the Administrator, have taken on an unsustainable level of debt due to customer nonpayment for the services provided by a large water service provider, a medium water service provider, or a rural water service provider.

(2) AFFORDABILITY INCLUSIONS.—The report under paragraph (1) shall include—

(A) a definition of the term "affordable access to water services";

(B) a description of the criteria used in defining "affordable access to water services" under subparagraph (A);

(C) a definition of the term "lack of affordable access to water services";

(D) a description of the methodology and criteria used in defining "lack of affordable access to water services" under subparagraph (C);

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(E) a determination of the prevalence of a lack of affordable access to water services, as defined under subparagraph (C);

(F) the methodology and criteria used to determine the prevalence of a lack of affordable access to water services under subparagraph (E);

(G) any additional information with respect to the affordable access to water services, as defined under subparagraph (A), provided by rural water service providers, medium water service providers, and large water service providers;

(H) with respect to the development of the report, a consultation with all relevant stakeholders, including rural advocacy associations;

(I) recommendations of the Administrator regarding the best methods to reduce the prevalence of a lack of affordable access to water services, as defined under subparagraph (C); and

(J) a description of the cost of each method described in subparagraph (I).

(3) AGREEMENTS.—The Administrator may enter into an agreement with another Federal agency to carry out the study under paragraph (1).

SEC. 50109. RURAL AND LOW-INCOME WATER ASSISTANCE PILOT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a municipality, Tribal government, or other entity that—

(i) owns or operates a community water system, treatment works, or municipal separate storm sewer system; or

(ii) as determined by the Administrator, has taken on an unsustainable level of debt due to customer nonpayment for the services provided by a community water system, treatment works, or municipal separate storm sewer system; and

(B) a State exercising primary enforcement responsibility over a rural water service provider under the Safe Drinking Water Act (42 U.S.C. 300f et seq.) or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as applicable.

(2) PILOT PROGRAM.—The term "pilot program" means the pilot program established by the Administrator under subsection (b)(1).

(3) WATER SERVICES NEEDS ASSESSMENT.—The term "water services needs assessment" means the report required under section 50108(b)(1).

(b) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Administrator shall establish a pilot program to award grants to eligible entities to develop and implement programs to assist qualifying households with need in maintaining access to drinking water and wastewater treatment.

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(2) REQUIREMENT.—In establishing the pilot program, the Administrator shall ensure that data from the water services needs assessment directly contributes to the structure of the pilot program by informing the types of assistance and criteria used for priority consideration with the demonstrated need from the study conducted under section 50108(b)(1) and the water services needs assessment.

(3) USE OF FUNDS LIMITATIONS.—A grant under the pilot program—

(A) shall not be used to replace funds for any existing similar program; but

(B) may be used to supplement or enhance an existing program, including a program that receives assistance from other Federal grants.

(4) TERM.—The term of a grant awarded under the pilot program shall be subject to the availability of appropriations.

(5) TYPES OF ASSISTANCE.—In establishing the pilot program, the Administrator may include provisions for—

(A) direct financial assistance;

(B) a lifeline rate;

(C) bill discounting;

(D) special hardship provisions;

(E) a percentage-of-income payment plan; or

(F) debt relief for the eligible entity or the community water system owned by the eligible entity for debt that is due to customer nonpayment for the services provided by the eligible entity or the community water system that is determined by the Administrator to be in the interest of public health.

(6) REQUIREMENT.—The Administrator shall award not more than 40 grants under the pilot program, of which—

(A) not more than 8 shall be to eligible entities that own, operate, or exercise primary enforcement responsibility over a rural water service provider under the Safe Drinking Water Act (42 U.S.C. 300f et seq.) or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as applicable;

(B) not more than 8 shall be to eligible entities that own or operate a medium water service provider;

(C) not more than 8 shall be to eligible entities that own or operate a large water service provider that serves not more than 500,000 people;

(D) not more than 8 shall be to eligible entities that own or operate a large water service provider that serves more than 500,000 people; and

(E) not more than 8 shall be to eligible entities that own or operate a community water system, treatment works, or municipal separate storm sewer system that services a disadvantaged community (consistent with the affordability criteria established by the applicable State under section 1452(d)(3) of the Safe Drinking Water Act (42 U.S.C. 300j–12(d)(3)) or section 603(i)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1383(i)(2)), as applicable).

(7) CRITERIA.—In addition to any priority criteria established by the Administrator in response to the findings in the water services needs assessment, in awarding grants under

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the pilot program, the Administrator shall give priority consideration to eligible entities that—

(A) serve a disproportionate percentage, as determined by the Administrator, of qualifying households with need, as identified in the water services needs assessment;

(B) are subject to State or Federal enforcement actions relating to compliance with the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) or the Safe Drinking Water Act (42 U.S.C. 300f et seq.); or

(C) maintain or participate in an existing community assistance program with objectives similar to the objectives of the pilot program, as determined by the Administrator.

(8) REPORTING REQUIREMENTS.—

(A) IN GENERAL.—In addition to any other applicable Federal or agency-specific grant reporting requirements, as a condition of receiving a grant under the pilot program, an eligible entity (or a State, on behalf of an eligible entity) shall submit to the Administrator an annual report that summarizes, in a manner determined by the Administrator, the use of grant funds by the eligible entity, including—

(i) key features of the assistance provided by the eligible entity;

(ii) sources of funding used to supplement Federal funds; and

(iii) eligibility criteria.

(B) PUBLICATION.—The Administrator shall publish each report submitted under subparagraph (A).

(c) TECHNICAL ASSISTANCE.—The Administrator shall provide technical assistance to each eligible entity, and each State, on behalf of an eligible entity, that receives a grant under the pilot program to support implementation of the program.

(d) REPORT.—Not later than 2 years after the date on which grant funds are first disbursed to an eligible entity (or a State, on behalf of an eligible entity) under the program, and every year thereafter for the duration of the terms of the grants, the Administrator shall submit to Congress a report on the results of the pilot program.

SEC. 50110. LEAD CONTAMINATION IN SCHOOL DRINKING WATER.

Section 1464 of the Safe Drinking Water Act (42 U.S.C. 300j–24) is amended—

(1) in subsection (b)—

(A) in the first sentence, by inserting "public water systems and" after "to assist"; and

(B) in the third sentence, by inserting "public water systems," after "schools,"; and

(2) in subsection (d)—

(A) in the subsection heading, by inserting "AND REDUCTION" after "LEAD TESTING";

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "the Administrator" and all that follows through the period at the end and inserting the following: "the Administrator shall establish a voluntary school and child care program lead testing, compliance monitoring, and lead reduction grant program to make grants available to—

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"(i) States to assist local educational agencies, public water systems that serve schools and child care programs under the jurisdiction of those local educational agencies, and qualified nonprofit organizations in voluntary testing or compliance monitoring for and remediation of lead contamination in drinking water at schools and child care programs under the jurisdiction of those local educational agencies; and

"(ii) tribal consortia to assist tribal education agencies (as defined in section 3 of the National Environmental Education Act (20 U.S.C. 5502)), public water systems that serve schools and child care programs under the jurisdiction of those tribal education agencies, and qualified nonprofit organizations in voluntary testing or compliance monitoring for and remediation of lead contamination in drinking water at schools and child care programs under the jurisdiction of those tribal education agencies."; and

(ii) in subparagraph (B)—

(I) in the matter preceding clause (i), by inserting "or compliance monitoring for or remediation of lead contamination" after "voluntary testing";

(II) in clause (i), by striking "or" at the end;

(III) in clause (ii), by striking the period at the end and inserting a semicolon; and

(IV) by adding at the end the following:

"(iii) any public water system that is located in a State that does not participate in the voluntary grant program established under subparagraph (A) that—

"(I) assists schools or child care programs in lead testing;

"(II) assists schools or child care programs with compliance monitoring;

"(III) assists schools with carrying out projects to remediate lead contamination in drinking water; or

"(IV) provides technical assistance to schools or child care programs in carrying out lead testing; or

"(iv) a qualified nonprofit organization, as determined by the Administrator.";

(C) in paragraphs (3), (5), (6), and (7), by striking "State or local educational agency" each place it appears and inserting "State, local educational agency, public water system, tribal consortium, or qualified nonprofit organization";

(D) in paragraph (4)—

(i) by striking "States and local educational agencies" and inserting "States, local educational agencies, public water systems, tribal consortia, and qualified nonprofit organizations"; and

(ii) by inserting "or the remediation of" after "testing for";

(E) in paragraph (6)—

(i) in the matter preceding subparagraph (A)—

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(I) by striking "State or local educational agency" and inserting "State, local educational agency, public water system, tribal consortium, or qualified nonprofit agency"; and

(II) by inserting ", public water system, tribal consortium, or qualified nonprofit organization" after "each local educational agency";

(ii) in subparagraph (A)(ii)—

(I) by inserting "or tribal" after "applicable State"; and

(II) by striking "reducing lead" and inserting "voluntary testing or compliance monitoring for and remediation of lead contamination"; and

(iii) in subparagraph (B)(i), by inserting "applicable" before "local educational agency";

(F) in paragraph (7), by striking "testing for" and inserting "testing or compliance monitoring for or remediation of"; and

(G) by striking paragraph (8) and inserting the following:

"(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection—

"(A) $30,000,000 for fiscal year 2022;

"(B) $35,000,000 for fiscal year 2023;

"(C) $40,000,000 for fiscal year 2024;

"(D) $45,000,000 for fiscal year 2025; and

"(E) $50,000,000 for fiscal year 2026.".

SEC. 50111. INDIAN RESERVATION DRINKING WATER PROGRAM.

Section 2001 of the America's Water Infrastructure Act of 2018 (42 U.S.C. 300j–3c note; Public Law 115–270) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "Subject to the availability of appropriations, the Administrator of the Environmental Protection Agency" and inserting "The Administrator of the Environmental Protection Agency (referred to in this section as the 'Administrator')"; and

(B) by striking "to implement" in the matter preceding paragraph (1) and all that follows through the period at the end of paragraph (2) and inserting "to implement eligible projects described in subsection (b).";

(2) in subsection (b), by striking paragraph (2) and inserting the following:

"(2) that will—

"(A) improve water quality, water pressure, or water services through means such as connecting to, expanding, repairing, improving, or obtaining water from a public water system (as defined in section 1401 of the Safe Drinking Water Act (42 U.S.C. 300f)); or

"(B) improve water quality or sanitation or wastewater services at a treatment works (as defined in section 212 of the Federal Water Pollution Control Act (33 U.S.C. 1292)).";

(3) by redesignating subsection (d) as subsection (g);

(4) by striking subsection (c) and inserting the following:

"(c) REQUIRED PROJECTS.—

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"(1) IN GENERAL.—If sufficient projects exist, of the funds made available to carry out this section, the Administrator shall use 50 percent to carry out—

"(A) 10 eligible projects described in subsection (b) that are within the Upper Missouri River Basin;

"(B) 10 eligible projects described in subsection (b) that are within the Upper Rio Grande Basin;

"(C) 10 eligible projects described in subsection (b) that are within the Columbia River Basin;

"(D) 10 eligible projects described in subsection (b) that are within the Lower Colorado River Basin; and

"(E) 10 eligible projects described in subsection (b) that are within the Arkansas-White-Red River Basin.

"(2) REQUIREMENT.—In carrying out paragraph (1)(A), the Administrator shall select not fewer than 2 eligible projects for a reservation that serves more than 1 federally recognized Indian Tribe.

"(d) PRIORITY.—In selecting projects to carry out under this section, the Administrator shall give priority to projects that—

"(1) respond to emergency situations occurring due to or resulting in a lack of access to clean drinking water that threatens the health of Tribal populations;

"(2) would serve a Tribal population that would qualify as a disadvantaged community based on the affordability criteria established by the applicable State under section 1452(d)(3) of the Safe Drinking Water Act (42 U.S.C. 300j–12(d)(3)); or

"(3) would address the underlying factors contributing to—

"(A) an enforcement action commenced pursuant to the Safe Drinking Water Act (42 U.S.C. 300f et seq.) against the applicable public water system (as defined in section 1401 of that Act (42 U.S.C. 300f)) as of the date of enactment of this subparagraph; or

"(B) an enforcement action commenced pursuant to the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) against the applicable treatment works (as defined in section 212 of that Act (33 U.S.C. 1292)) as of the date of enactment of this subparagraph.

"(e) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this section shall be 100 percent.

"(f) REPORT.—Not later than 2 years after the date of enactment of this subsection, the Administrator shall submit to Congress a report that describes the implementation of the program established under subsection (a), which shall include a description of the use and deployment of amounts made available under that program."; and

(5) in subsection (g) (as so redesignated)—

(A) by striking "There is" and inserting "There are";

(B) by striking "subsection (a) $20,000,000" and inserting the following: "subsection (a)—

"(1) $20,000,000";

(C) in paragraph (1) (as so designated), by striking "2022." and inserting "2021; and"; and

(D) by adding at the end the following:

"(2) $50,000,000 for each of fiscal years 2022 through 2026.".

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SEC. 50112. ADVANCED DRINKING WATER TECHNOLOGIES.

Part E of the Safe Drinking Water Act (42 U.S.C. 300j et seq.) (as amended by section 50107) is amended by adding at the end the following:

"SEC. 1459G. ADVANCED DRINKING WATER TECHNOLOGIES.

"(a) STUDY.—

"(1) IN GENERAL.—Subject to the availability of appropriations, not later than 1 year after the date of enactment of this section, the Administrator shall carry out a study that examines the state of existing and potential future technology, including technology that could address cybersecurity vulnerabilities, that enhances or could enhance the treatment, monitoring, affordability, efficiency, and safety of drinking water provided by a public water system.

"(2) REPORT.—The Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that describes the results of the study under paragraph (1).

"(b) ADVANCED DRINKING WATER TECHNOLOGY GRANT PROGRAM.—

"(1) DEFINITIONS.—In this subsection:

"(A) ELIGIBLE ENTITY.—The term 'eligible entity' means the owner or operator of a public water system that—

"(i) serves—

"(I) a population of not more than 100,000 people; or

"(II) a community described in section 1459A(c)(2);

"(ii) has plans to identify or has identified opportunities in the operations of the public water system to employ new, existing, or emerging, yet proven, technologies, including technology that could address cybersecurity vulnerabilities, as determined by the Administrator, that enhance treatment, monitoring, affordability, efficiency, or safety of the drinking water provided by the public water system, including technologies not identified in the study conducted under subsection (a)(1); and

"(iii) has expressed an interest in the opportunities in the operation of the public water system to employ new, existing, or emerging, yet proven, technologies, including technology that could address cybersecurity vulnerabilities, as determined by the Administrator, that enhance treatment, monitoring, affordability, efficiency, or safety of the drinking water provided by the public water system, including technologies not identified in the study conducted under subsection (a)(1).

"(B) PROGRAM.—The term 'program' means the competitive grant program established under paragraph (2).

"(2) ESTABLISHMENT.—The Administrator shall establish a competitive grant program under which the Administrator

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shall award grants to eligible entities for the purpose of identifying, deploying, or identifying and deploying technologies described in paragraph (1)(A)(ii).

"(3) REQUIREMENTS.—

"(A) APPLICATIONS.—To be eligible to receive a grant under the program, an eligible entity shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require.

"(B) FEDERAL SHARE.—

"(i) IN GENERAL.—Subject to clause (ii), the Federal share of the cost of a project carried out using a grant under the program shall not exceed 90 percent of the total cost of the project.

"(ii) WAIVER.—The Administrator may increase the Federal share under clause (i) to 100 percent if the Administrator determines that an eligible entity is unable to pay, or would experience significant financial hardship if required to pay, the non-Federal share.

"(4) REPORT.—Not later than 2 years after the date on which the Administrator first awards a grant under the program, and annually thereafter, the Administrator shall submit to Congress a report describing—

"(A) each recipient of a grant under the program during the previous 1-year period; and

"(B) a summary of the activities carried out using grants awarded under the program.

"(5) FUNDING.—

"(A) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the program $10,000,000 for each of fiscal years 2022 through 2026, to remain available until expended.

"(B) ADMINISTRATIVE COSTS.—Not more than 2 percent of the amount made available for a fiscal year under subparagraph (A) to carry out the program may be used by the Administrator for the administrative costs of carrying out the program.".

SEC. 50113. CYBERSECURITY SUPPORT FOR PUBLIC WATER SYSTEMS.

Part B of the Safe Drinking Water Act (42 U.S.C. 300g et seq.) is amended by adding at the end the following:

"SEC. 1420A. CYBERSECURITY SUPPORT FOR PUBLIC WATER SYSTEMS.

"(a) DEFINITIONS.—In this section:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate Congressional committees' means—

"(A) the Committee on Environment and Public Works of the Senate;

"(B) the Committee on Homeland Security and Governmental Affairs of the Senate;

"(C) the Committee on Energy and Commerce of the House of Representatives; and

"(D) the Committee on Homeland Security of the House of Representatives.

"(2) DIRECTOR.—The term 'Director' means the Director of the Cybersecurity and Infrastructure Security Agency.

"(3) INCIDENT.—The term 'incident' has the meaning given the term in section 3552 of title 44, United States Code.

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"(4) PRIORITIZATION FRAMEWORK.—The term 'Prioritization Framework' means the prioritization framework developed by the Administrator under subsection (b)(1)(A).

"(5) SUPPORT PLAN.—The term 'Support Plan' means the Technical Cybersecurity Support Plan developed by the Administrator under subsection (b)(2)(A).

"(b) IDENTIFICATION OF AND SUPPORT FOR PUBLIC WATER SYSTEMS.—

"(1) PRIORITIZATION FRAMEWORK.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Administrator, in coordination with the Director, shall develop a prioritization framework to identify public water systems (including sources of water for those public water systems) that, if degraded or rendered inoperable due to an incident, would lead to significant impacts on the health and safety of the public.

"(B) CONSIDERATIONS.—In developing the Prioritization Framework, to the extent practicable, the Administrator shall incorporate consideration of—

"(i) whether cybersecurity vulnerabilities for a public water system have been identified under section 1433;

"(ii) the capacity of a public water system to remediate a cybersecurity vulnerability without additional Federal support;

"(iii) whether a public water system serves a defense installation or critical national security asset; and

"(iv) whether a public water system, if degraded or rendered inoperable due to an incident, would cause a cascading failure of other critical infrastructure.

"(2) TECHNICAL CYBERSECURITY SUPPORT PLAN.—

"(A) IN GENERAL.—Not later than 270 days after the date of enactment of this section, the Administrator, in coordination with the Director and using existing authorities of the Administrator and the Director for providing voluntary support to public water systems and the Prioritization Framework, shall develop a Technical Cybersecurity Support Plan for public water systems.

"(B) REQUIREMENTS.—The Support Plan—

"(i) shall establish a methodology for identifying specific public water systems for which cybersecurity support should be prioritized;

"(ii) shall establish timelines for making voluntary technical support for cybersecurity available to specific public water systems;

"(iii) may include public water systems identified by the Administrator, in coordination with the Director, as needing technical support for cybersecurity;

"(iv) shall include specific capabilities of the Administrator and the Director that may be utilized to provide support to public water systems under the Support Plan, including—

"(I) site vulnerability and risk assessments;

"(II) penetration tests; and

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"(III) any additional support determined to be appropriate by the Administrator; and

"(v) shall only include plans for providing voluntary support to public water systems.

"(3) CONSULTATION REQUIRED.—In developing the Prioritization Framework pursuant to paragraph (1) and the Support Plan pursuant to paragraph (2), the Administrator shall consult with such Federal or non-Federal entities as determined to be appropriate by the Administrator.

"(4) REPORTS REQUIRED.—

"(A) PRIORITIZATION FRAMEWORK.—Not later than 190 days after the date of enactment of this section, the Administrator shall submit to the appropriate Congressional committees a report describing the Prioritization Framework.

"(B) TECHNICAL CYBERSECURITY SUPPORT PLAN.—Not later than 280 days after the date of enactment of this section, the Administrator shall submit to the appropriate Congressional committees—

"(i) the Support Plan; and

"(ii) a list describing any public water systems identified by the Administrator, in coordination with the Director, as needing technical support for cybersecurity during the development of the Support Plan.

"(c) RULES OF CONSTRUCTION.—Nothing in this section—

"(1) alters the existing authorities of the Administrator; or

"(2) compels a public water system to accept technical support offered by the Administrator.".

SEC. 50114. STATE RESPONSE TO CONTAMINANTS.

Section 1459A(j)(1) of the Safe Drinking Water Act (42 U.S.C. 300j–19a(j)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking "an underserved community" and inserting "a community described in subsection (c)(2)"; and

(2) in subparagraph (A)(i), by striking "such underserved" and inserting "that".

SEC. 50115. ANNUAL STUDY ON BOIL WATER ADVISORIES.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Administrator shall conduct a study on the prevalence of boil water advisories issued in the United States.

(b) REPORT.—

(1) IN GENERAL.—The Administrator shall submit to Congress a report describing the results of the most recent study conducted under subsection (a) as part of the annual budget request transmitted to Congress under section 1105(a) of title 31, United States Code.

(2) REQUIREMENT.—In the annual report required under paragraph (1), the Administrator shall include a description of the reasons for which boil water advisories were issued during the year covered by the report.

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TITLE II—CLEAN WATER

SEC. 50201. RESEARCH, INVESTIGATIONS, TRAINING, AND INFORMATION.

(a) REAUTHORIZATION.—Section 104(u) of the Federal Water Pollution Control Act (33 U.S.C. 1254(u)) is amended—

(1) by striking "and (7)" and inserting "(7)"; and

(2) in paragraph (7)—

(A) by striking "2023" and inserting "2021"; and

(B) by striking the period at the end and inserting "; and (8) not to exceed $75,000,000 for each of fiscal years 2022 through 2026 for carrying out subsections (b)(3), (b)(8), and (g), of which not less than $50,000,000 each fiscal year shall be used to carry out subsection (b)(8).".

(b) COMMUNICATION.—Each nonprofit organization that receives funding under paragraph (8) of section 104(b) of the Federal Water Pollution Control Act (33 U.S.C. 1254(b)) shall, before using that funding to undertake activities to carry out that paragraph, consult with the State in which the assistance is to be expended or otherwise made available.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Administrator shall submit to Congress a report that describes the implementation of the grants authorized under subsections (b)(3), (b)(8), and (g) of section 104 of the Federal Water Pollution Control Act (33 U.S.C. 1254), which shall include a description of the grant recipients and grant amounts made available to carry out those subsections.

SEC. 50202. WASTEWATER EFFICIENCY GRANT PILOT PROGRAM.

Title II of the Federal Water Pollution Control Act (33 U.S.C. 1281 et seq.) is amended by adding at the end the following:

"SEC. 222. WASTEWATER EFFICIENCY GRANT PILOT PROGRAM.

"(a) ESTABLISHMENT.—Subject to the availability of appropriations, the Administrator shall establish a wastewater efficiency grant pilot program (referred to in this section as the 'pilot program') to award grants to owners or operators of publicly owned treatment works to carry out projects that create or improve waste-to-energy systems.

"(b) SELECTION.—

"(1) APPLICATIONS.—To be eligible to receive a grant under the pilot program, an owner or operator of a treatment works shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require.

"(2) NUMBER OF RECIPIENTS.—The Administrator shall select not more than 15 recipients of grants under the pilot program from applications submitted under paragraph (1).

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—Subject to paragraph (2), a recipient of a grant under the pilot program may use grant funds for—

"(A) sludge collection;

"(B) installation of anaerobic digesters;

"(C) methane capture;

"(D) methane transfer;

"(E) facility upgrades and retrofits necessary to create or improve waste-to-energy systems; and

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"(F) other new and emerging, but proven, technologies that transform waste to energy.

"(2) LIMITATION.—A grant to a recipient under the pilot program shall be not more than $4,000,000.

"(d) REPORTS.—

"(1) REPORT TO THE ADMINISTRATOR.—Not later than 2 years after receiving a grant under the pilot program and each year thereafter for which amounts are made available for the pilot program under subsection (e), the recipient of the grant shall submit to the Administrator a report describing the impact of that project on the communities within 3 miles of the treatment works.

"(2) REPORT TO CONGRESS.—Not later than 1 year after first awarding grants under the pilot program and each year thereafter for which amounts are made available for the pilot program under subsection (e), the Administrator shall submit to Congress a report describing—

"(A) the applications received by the Administrator for grants under the pilot program; and

"(B) the projects for which grants were awarded under the pilot program.

"(e) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to carry out the pilot program $20,000,000 for each of fiscal years 2022 through 2026, to remain available until expended.

"(2) LIMITATION ON USE OF FUNDS.—Of the amounts made available for grants under paragraph (1), not more than 2 percent may be used to pay the administrative costs of the Administrator.".

SEC. 50203. PILOT PROGRAM FOR ALTERNATIVE WATER SOURCE PROJECTS.

Section 220 of the Federal Water Pollution Control Act (33 U.S.C. 1300) is amended—

(1) in subsection (b), in the heading, by striking "IN GENERAL" and inserting "ESTABLISHMENT";

(2) in subsection (d)—

(A) in paragraph (1), by inserting "construction" before "funds";

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2);

(3) by striking subsection (e);

(4) in subsection (i)—

(A) in the matter preceding paragraph (1), by striking ", the following definitions apply"; and

(B) in paragraph (1), in the first sentence, by striking "water or wastewater or by treating wastewater" and inserting "water, wastewater, or stormwater or by treating wastewater or stormwater for groundwater recharge, potable reuse, or other purposes";

(5) in subsection (j)—

(A) in the first sentence, by striking "There is" and inserting the following:

"(1) IN GENERAL.—There is";

(B) in paragraph (1) (as so designated), by striking "a total of $75,000,000 for fiscal years 2002 through 2004.

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Such sums shall" and inserting "$25,000,000 for each of fiscal years 2022 through 2026, to"; and

(C) by adding at the end the following:

"(2) LIMITATION ON USE OF FUNDS.—Of the amounts made available for grants under paragraph (1), not more than 2 percent may be used to pay the administrative costs of the Administrator."; and

(6) by redesignating subsections (b), (c), (d), (i), and (j) as subsections (c), (d), (e), (b), and (i), respectively, and moving those subsections so as to appear in alphabetical order.

SEC. 50204. SEWER OVERFLOW AND STORMWATER REUSE MUNICIPAL GRANTS.

Section 221 of the Federal Water Pollution Control Act (33 U.S.C. 1301) is amended—

(1) in subsection (a)(1) —

(A) in subparagraph (A), by striking "and" at the end;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

"(B) notification systems to inform the public of combined sewer or sanitary overflows that result in sewage being released into rivers and other waters; and";

(2) in subsection (d)—

(A) in the second sentence, by striking "The non-Federal share of the cost" and inserting the following:

"(3) TYPES OF NON-FEDERAL SHARE.—The applicable non-Federal share of the cost under this subsection";

(B) in the first sentence, by striking "The Federal" and inserting the following:

"(1) IN GENERAL.—The Federal"; and

(C) by inserting after paragraph (1) (as so designated) the following:

"(2) RURAL AND FINANCIALLY DISTRESSED COMMUNITIES.—To the maximum extent practicable, the Administrator shall work with States to prevent the non-Federal share requirements under this subsection from being passed on to rural communities and financially distressed communities (as those terms are defined in subsection (f)(2)(B)(i)).";

(3) in subsection (f)—

(A) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $280,000,000 for each of fiscal years 2022 through 2026."; and

(B) in paragraph (2)—

(i) by striking "To the extent" and inserting the following:

"(A) GREEN PROJECTS.—To the extent"; and

(ii) by adding at the end the following:

"(B) RURAL OR FINANCIALLY DISTRESSED COMMUNITY ALLOCATION.—

"(i) DEFINITIONS.—In this subparagraph:

"(I) FINANCIALLY DISTRESSED COMMUNITY.—The term 'financially distressed community' has the meaning given the term in subsection (c)(1).

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"(II) RURAL COMMUNITY.—The term 'rural community' means a city, town, or unincorporated area that has a population of not more than 10,000 inhabitants.

"(ii) ALLOCATION.—

"(I) IN GENERAL.—To the extent there are sufficient eligible project applications, the Administrator shall ensure that a State uses not less than 25 percent of the amount of the grants made to the State under subsection (a) in a fiscal year to carry out projects in rural communities or financially distressed communities for the purpose of planning, design, and construction of—

"(aa) treatment works to intercept, transport, control, treat, or reuse municipal sewer overflows, sanitary sewer overflows, or stormwater; or

"(bb) any other measures to manage, reduce, treat, or recapture stormwater or subsurface drainage water eligible for assistance under section 603(c).

"(II) RURAL COMMUNITIES.—Of the funds allocated under subclause (I) for the purposes described in that subclause, to the extent there are sufficient eligible project applications, the Administrator shall ensure that a State uses not less than 60 percent to carry out projects in rural communities."; and

(4) in subsection (i)—

(A) in the second sentence, by striking "The recommended funding levels" and inserting the following:

"(B) REQUIREMENT.—The funding levels recommended under subparagraph (A)(i)";

(B) in the first sentence, by striking "Not later" and inserting the following:

"(1) PERIODIC REPORTS.—

"(A) IN GENERAL.—Not later";

(C) in paragraph (1)(A) (as so designated)—

(i) by striking the period at the end and inserting "; and";

(ii) by striking "containing recommended" and inserting the following: "containing—

"(i) recommended"; and

(iii) by adding at the end the following:

"(ii) a description of the extent to which States pass costs associated with the non-Federal share requirements under subsection (d) to local communities, with a focus on rural communities and financially distressed communities (as those terms are defined in subsection (f)(2)(B)(i))."; and

(D) by adding at the end the following:

"(2) USE OF FUNDS.—Not later than 2 years after the date of enactment of this paragraph, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the implementation of the grant program under this section,

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which shall include a description of the grant recipients, sources of funds for non-Federal share requirements under subsection (d), and grant amounts made available under the program.".

SEC. 50205. CLEAN WATER INFRASTRUCTURE RESILIENCY AND SUSTAINABILITY PROGRAM.

Title II of the Federal Water Pollution Control Act (33 U.S.C. 1281 et seq.) (as amended by section 50202) is amended by adding at the end the following:

"SEC. 223. CLEAN WATER INFRASTRUCTURE RESILIENCY AND SUSTAINABILITY PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(A) a municipality; or

"(B) an intermunicipal, interstate, or State agency.

"(2) NATURAL HAZARD.—The term 'natural hazard' means a hazard caused by natural forces, including extreme weather events, sea-level rise, and extreme drought conditions.

"(3) PROGRAM.—The term 'program' means the clean water infrastructure resilience and sustainability program established under subsection (b).

"(b) ESTABLISHMENT.—Subject to the availability of appropriations, the Administrator shall establish a clean water infrastructure resilience and sustainability program under which the Administrator shall award grants to eligible entities for the purpose of increasing the resilience of publicly owned treatment works to a natural hazard or cybersecurity vulnerabilities.

"(c) USE OF FUNDS.—An eligible entity that receives a grant under the program shall use the grant funds for planning, designing, or constructing projects (on a system-wide or area-wide basis) that increase the resilience of a publicly owned treatment works to a natural hazard or cybersecurity vulnerabilities through—

"(1) the conservation of water;

"(2) the enhancement of water use efficiency;

"(3) the enhancement of wastewater and stormwater management by increasing watershed preservation and protection, including through the use of—

"(A) natural and engineered green infrastructure; and

"(B) reclamation and reuse of wastewater and stormwater, such as aquifer recharge zones;

"(4) the modification or relocation of an existing publicly owned treatment works, conveyance, or discharge system component that is at risk of being significantly impaired or damaged by a natural hazard;

"(5) the development and implementation of projects to increase the resilience of publicly owned treatment works to a natural hazard or cybersecurity vulnerabilities, as applicable; or

"(6) the enhancement of energy efficiency or the use and generation of recovered or renewable energy in the management, treatment, or conveyance of wastewater or stormwater.

"(d) APPLICATION.—To be eligible to receive a grant under the program, an eligible entity shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require, including—

"(1) a proposal of the project to be planned, designed, or constructed using funds under the program;

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"(2) an identification of the natural hazard risk of the area where the proposed project is to be located or potential cybersecurity vulnerability, as applicable, to be addressed by the proposed project;

"(3) documentation prepared by a Federal, State, regional, or local government agency of the natural hazard risk of the area where the proposed project is to be located or potential cybersecurity vulnerability, as applicable, of the area where the proposed project is to be located;

"(4) a description of any recent natural hazard risk of the area where the proposed project is to be located or potential cybersecurity vulnerabilities that have affected the publicly owned treatment works;

"(5) a description of how the proposed project would improve the performance of the publicly owned treatment works under an anticipated natural hazard or natural hazard risk of the area where the proposed project is to be located or a potential cybersecurity vulnerability, as applicable; and

"(6) an explanation of how the proposed project is expected to enhance the resilience of the publicly owned treatment works to a natural hazard risk of the area where the proposed project is to be located or a potential cybersecurity vulnerability, as applicable.

"(e) GRANT AMOUNT AND OTHER FEDERAL REQUIREMENTS.—

"(1) COST SHARE.—Except as provided in paragraph (2), a grant under the program shall not exceed 75 percent of the total cost of the proposed project.

"(2) EXCEPTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a grant under the program shall not exceed 90 percent of the total cost of the proposed project if the project serves a community that—

"(i) has a population of fewer than 10,000 individuals; or

"(ii) meets the affordability criteria established by the State in which the community is located under section 603(i)(2).

"(B) WAIVER.—At the discretion of the Administrator, a grant for a project described in subparagraph (A) may cover 100 percent of the total cost of the proposed project.

"(3) REQUIREMENTS.—The requirements of section 608 shall apply to a project funded with a grant under the program.

"(f) REPORT.—Not later than 2 years after the date of enactment of this section, the Administrator shall submit to Congress a report that describes the implementation of the program, which shall include an accounting of all grants awarded under the program, including a description of each grant recipient and each project funded using a grant under the program.

"(g) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2022 through 2026.

"(2) LIMITATION ON USE OF FUNDS.—Of the amounts made available for grants under paragraph (1), not more than 2 percent may be used to pay the administrative costs of the Administrator.".

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SEC. 50206. SMALL AND MEDIUM PUBLICLY OWNED TREATMENT WORKS CIRCUIT RIDER PROGRAM.

Title II of the Federal Water Pollution Control Act (33 U.S.C. 1281 et seq.) (as amended by section 50205) is amended by adding at the end the following:

"SEC. 224. SMALL AND MEDIUM PUBLICLY OWNED TREATMENT WORKS CIRCUIT RIDER PROGRAM.

"(a) ESTABLISHMENT.—Subject to the availability of appropriations, not later than 180 days after the date of enactment of this section, the Administrator shall establish a circuit rider program (referred to in this section as the 'circuit rider program') under which the Administrator shall award grants to qualified nonprofit entities, as determined by the Administrator, to provide assistance to owners and operators of small and medium publicly owned treatment works to carry out the activities described in section 602(b)(13).

"(b) LIMITATION.—A grant provided under the circuit rider program shall be in an amount that is not more than $75,000.

"(c) PRIORITIZATION.—In selecting recipients of grants under the circuit rider program, the Administrator shall give priority to qualified nonprofit entities, as determined by the Administrator, that would serve a community that—

"(1) has a history, for not less than the 10 years prior to the award of the grant, of unresolved wastewater issues, stormwater issues, or a combination of wastewater and stormwater issues;

"(2) is considered financially distressed;

"(3) faces the cumulative burden of stormwater and wastewater overflow issues; or

"(4) has previously failed to access Federal technical assistance due to cost-sharing requirements.

"(d) COMMUNICATION.—Each qualified nonprofit entity that receives funding under this section shall, before using that funding to undertake activities to carry out this section, consult with the State in which the assistance is to be expended or otherwise made available.

"(e) REPORT.—Not later than 2 years after the date on which the Administrator establishes the circuit rider program, and every 2 years thereafter, the Administrator shall submit to Congress a report describing—

"(1) each recipient of a grant under the circuit rider program; and

"(2) a summary of the activities carried out under the circuit rider program.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $10,000,000 for the period of fiscal years 2022 through 2026.

"(2) LIMITATION ON USE OF FUNDS.—Of the amounts made available for grants under paragraph (1), not more than 2 percent may be used to pay the administrative costs of the Administrator.".

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SEC. 50207. SMALL PUBLICLY OWNED TREATMENT WORKS EFFICIENCY GRANT PROGRAM.

Title II of the Federal Water Pollution Control Act (33 U.S.C. 1281 et seq.) (as amended by section 50206) is amended by adding at the end the following:

"SEC. 225. SMALL PUBLICLY OWNED TREATMENT WORKS EFFICIENCY GRANT PROGRAM.

"(a) ESTABLISHMENT.—Subject to the availability of appropriations, not later than 180 days after the date of enactment of this section, the Administrator shall establish an efficiency grant program (referred to in this section as the 'efficiency grant program') under which the Administrator shall award grants to eligible entities for the replacement or repair of equipment that improves water or energy efficiency of small publicly owned treatment works, as identified in an efficiency audit.

"(b) ELIGIBLE ENTITIES.—The Administrator may award a grant under the efficiency grant program to—

"(1) an owner or operator of a small publicly owned treatment works that serves—

"(A) a population of not more than 10,000 people; or

"(B) a disadvantaged community; or

"(2) a nonprofit organization that seeks to assist a small publicly owned treatment works described in paragraph (1) to carry out the activities described in subsection (a).

"(c) REPORT.—Not later than 2 years after the date on which the Administrator establishes the efficiency grant program, and every 2 years thereafter, the Administrator shall submit to Congress a report describing—

"(1) each recipient of a grant under the efficiency grant program; and

"(2) a summary of the activities carried out under the efficiency grant program.

"(d) USE OF FUNDS.—

"(1) SMALL SYSTEMS.—Of the amounts made available for grants under this section, to the extent that there are sufficient applications, not less than 15 percent shall be used for grants to publicly owned treatment works that serve fewer than 3,300 people.

"(2) LIMITATION ON USE OF FUNDS.—Of the amounts made available for grants under this section, not more than 2 percent may be used to pay the administrative costs of the Administrator.".

SEC. 50208. GRANTS FOR CONSTRUCTION AND REFURBISHING OF INDIVIDUAL HOUSEHOLD DECENTRALIZED WASTEWATER SYSTEMS FOR INDIVIDUALS WITH LOW OR MODERATE INCOME.

Title II of the Federal Water Pollution Control Act (33 U.S.C. 1281 et seq.) (as amended by section 50207) is amended by adding at the end the following:

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"SEC. 226. GRANTS FOR CONSTRUCTION AND REFURBISHING OF INDIVIDUAL HOUSEHOLD DECENTRALIZED WASTEWATER SYSTEMS FOR INDIVIDUALS WITH LOW OR MODERATE INCOME.

"(a) DEFINITION OF ELIGIBLE INDIVIDUAL.—In this section, the term 'eligible individual' means a member of a low-income or moderate-income household, the members of which have a combined income (for the most recent 12-month period for which information is available) equal to not more than 50 percent of the median nonmetropolitan household income for the State or territory in which the household is located, according to the most recent decennial census.

"(b) GRANT PROGRAM.—

"(1) IN GENERAL.—Subject to the availability of appropriations, the Administrator shall establish a program under which the Administrator shall provide grants to private nonprofit organizations for the purpose of improving general welfare by providing assistance to eligible individuals—

"(A) for the construction, repair, or replacement of an individual household decentralized wastewater treatment system; or

"(B) for the installation of a larger decentralized wastewater system designed to provide treatment for 2 or more households in which eligible individuals reside, if—

"(i) site conditions at the households are unsuitable for the installation of an individually owned decentralized wastewater system;

"(ii) multiple examples of unsuitable site conditions exist in close geographic proximity to each other; and

"(iii) a larger decentralized wastewater system could be cost-effectively installed.

"(2) APPLICATION.—To be eligible to receive a grant under this subsection, a private nonprofit organization shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator determines to be appropriate.

"(3) PRIORITY.—In awarding grants under this subsection, the Administrator shall give priority to applicants that have substantial expertise and experience in promoting the safe and effective use of individual household decentralized wastewater systems.

"(4) ADMINISTRATIVE EXPENSES.—A private nonprofit organization may use amounts provided under this subsection to pay the administrative expenses associated with the provision of the services described in paragraph (1), as the Administrator determines to be appropriate.

"(c) GRANTS.—

"(1) IN GENERAL.—Subject to paragraph (2), a private nonprofit organization shall use a grant provided under subsection (b) for the services described in paragraph (1) of that subsection.

"(2) APPLICATION.—To be eligible to receive the services described in subsection (b)(1), an eligible individual shall submit to the private nonprofit organization serving the area in which the individual household decentralized wastewater system of the eligible individuals is, or is proposed to be, located an application at such time, in such manner, and containing such

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information as the private nonprofit organization determines to be appropriate.

"(3) PRIORITY.—In awarding grants under this subsection, a private nonprofit organization shall give priority to any eligible individual who does not have access to a sanitary sewage disposal system.

"(d) REPORT.—Not later than 2 years after the date of enactment of this section, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing the recipients of grants under the program under this section and the results of the program under this section.

"(e) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to the Administrator to carry out this section $50,000,000 for each of fiscal years 2022 through 2026.

"(2) LIMITATION ON USE OF FUNDS.—Of the amounts made available for grants under paragraph (1), not more than 2 percent may be used to pay the administrative costs of the Administrator.".

SEC. 50209. CONNECTION TO PUBLICLY OWNED TREATMENT WORKS.

Title II of the Federal Water Pollution Control Act (33 U.S.C. 1281 et seq.) (as amended by section 50208) is amended by adding at the end the following:

"SEC. 227. CONNECTION TO PUBLICLY OWNED TREATMENT WORKS.

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(A) an owner or operator of a publicly owned treatment works that assists or is seeking to assist low-income or moderate-income individuals with connecting the household of the individual to the publicly owned treatment works; or

"(B) a nonprofit entity that assists low-income or moderate-income individuals with the costs associated with connecting the household of the individual to a publicly owned treatment works.

"(2) PROGRAM.—The term 'program' means the competitive grant program established under subsection (b).

"(3) QUALIFIED INDIVIDUAL.—The term 'qualified individual' has the meaning given the term 'eligible individual' in section 603(j).

"(b) ESTABLISHMENT.—Subject to the availability of appropriations, the Administrator shall establish a competitive grant program with the purpose of improving general welfare, under which the Administrator awards grants to eligible entities to provide funds to assist qualified individuals in covering the costs incurred by the qualified individual in connecting the household of the qualified individual to a publicly owned treatment works.

"(c) APPLICATION.—

"(1) IN GENERAL.—An eligible entity seeking a grant under the program shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may by regulation require.

"(2) REQUIREMENT.—Not later than 90 days after the date on which the Administrator receives an application from an

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eligible entity under paragraph (1), the Administrator shall notify the eligible entity of whether the Administrator will award a grant to the eligible entity under the program.

"(d) SELECTION CRITERIA.—In selecting recipients of grants under the program, the Administrator shall use the following criteria:

"(1) Whether the eligible entity seeking a grant provides services to, or works directly with, qualified individuals.

"(2) Whether the eligible entity seeking a grant—

"(A) has an existing program to assist in covering the costs incurred in connecting a household to a publicly owned treatment works; or

"(B) seeks to create a program described in subparagraph (A).

"(e) REQUIREMENTS.—

"(1) VOLUNTARY CONNECTION.—Before providing funds to a qualified individual for the costs described in subsection (b), an eligible entity shall ensure that—

"(A) the qualified individual has connected to the publicly owned treatment works voluntarily; and

"(B) if the eligible entity is not the owner or operator of the publicly owned treatment works to which the qualified individual has connected, the publicly owned treatment works to which the qualified individual has connected has agreed to the connection.

"(2) REIMBURSEMENTS FROM PUBLICLY OWNED TREATMENT WORKS.—An eligible entity that is an owner or operator of a publicly owned treatment works may reimburse a qualified individual that has already incurred the costs described in subsection (b) by—

"(A) reducing the amount otherwise owed by the qualified individual to the owner or operator for wastewater or other services provided by the owner or operator; or

"(B) providing a direct payment to the qualified individual.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to carry out the program $40,000,000 for each of fiscal years 2022 through 2026.

"(2) LIMITATIONS ON USE OF FUNDS.—

"(A) SMALL SYSTEMS.—Of the amounts made available for grants under paragraph (1), to the extent that there are sufficient applications, not less than 15 percent shall be used to make grants to—

"(i) eligible entities described in subsection (a)(1)(A) that are owners and operators of publicly owned treatment works that serve fewer than 3,300 people; and

"(ii) eligible entities described in subsection (a)(1)(B) that provide the assistance described in that subsection in areas that are served by publicly owned treatment works that serve fewer than 3,300 people.

"(B) ADMINISTRATIVE COSTS.—Of the amounts made available for grants under paragraph (1), not more than 2 percent may be used to pay the administrative costs of the Administrator.".

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SEC. 50210. CLEAN WATER STATE REVOLVING FUNDS.

(a) USE OF FUNDS.—

(1) IN GENERAL.—Section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1383) is amended—

(A) in subsection (d), in the matter preceding paragraph (1), by inserting "and provided in subsection (k)" after "State law";

(B) in subsection (i)—

(i) in paragraph (1), in the matter preceding subparagraph (A), by striking ", including forgiveness of principal and negative interest loans" and inserting "(including forgiveness of principal, grants, negative interest loans, other loan forgiveness, and through buying, refinancing, or restructuring debt)"; and

(ii) in paragraph (3), by striking subparagraph (B) and inserting the following:

"(B) TOTAL AMOUNT OF SUBSIDIZATION.—

"(i) IN GENERAL.—For each fiscal year, of the amount of the capitalization grant received by the State under this title, the total amount of additional subsidization made available by a State under paragraph (1)—

"(I) may not exceed 30 percent; and

"(II) to the extent that there are sufficient applications for assistance to communities described in that paragraph, may not be less than 10 percent.

"(ii) EXCLUSION.—A loan from the water pollution control revolving fund of a State with an interest rate equal to or greater than 0 percent shall not be considered additional subsidization for purposes of this subparagraph."; and

(C) by adding at the end the following:

"(k) ADDITIONAL USE OF FUNDS.—A State may use an additional 2 percent of the funds annually awarded to each State under this title for nonprofit organizations (as defined in section 104(w)) or State, regional, interstate, or municipal entities to provide technical assistance to rural, small, and tribal publicly owned treatment works (within the meaning of section 104(b)(8)(B)) in the State.".

(2) TECHNICAL AMENDMENT.—Section 104(w) of the Federal Water Pollution Control Act (33 U.S.C. 1254(w)) is amended by striking "treatments works" and inserting "treatment works".

(b) CAPITALIZATION GRANT REAUTHORIZATION.—Section 607 of the Federal Water Pollution Control Act (33 U.S.C. 1387) is amended to read as follows:

"SEC. 607. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out the purposes of this title—

"(1) $2,400,000,000 for fiscal year 2022;

"(2) $2,750,000,000 for fiscal year 2023;

"(3) $3,000,000,000 for fiscal year 2024; and

"(4) $3,250,000,000 for each of fiscal years 2025 and 2026.".

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SEC. 50211. WATER INFRASTRUCTURE AND WORKFORCE INVESTMENT.

Section 4304 of the America's Water Infrastructure Act of 2018 (42 U.S.C. 300j–19e) is amended—

(1) in subsection (a)(3)—

(A) in subparagraph (A), by inserting "Tribal," after "State,"; and

(B) in subparagraph (B), by striking "community-based organizations" and all that follows through the period at the end and inserting the following: "community-based organizations and public works departments or agencies to align water and wastewater utility workforce recruitment efforts, training programs, retention efforts, and community resources with water and wastewater utilities—

"(i) to accelerate career pipelines;

"(ii) to ensure the sustainability of the water and wastewater utility workforce; and

"(iii) to provide access to workforce opportunities.";

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking subparagraph (B);

(ii) in subparagraph (A), by striking "; and" at the end and inserting ", which may include—"

(iii) in the matter preceding subparagraph (A), by striking "program—" and all that follows through "to assist" in subparagraph (A) and inserting "program to assist"; and

(iv) by adding at the end the following:

"(A) expanding the use and availability of activities and resources that relate to the recruitment, including the promotion of diversity within that recruitment, of individuals to careers in the water and wastewater utility sector;

"(B) expanding the availability of training opportunities for—

"(i) individuals entering into the water and wastewater utility sector; and

"(ii) individuals seeking to advance careers within the water and wastewater utility sector; and

"(C) expanding the use and availability of activities and strategies, including the development of innovative activities and strategies, that relate to the maintenance and retention of a sustainable workforce in the water and wastewater utility sector.";

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking "institutions—" and inserting "institutions, or public works departments and agencies—"; and

(ii) in subparagraph (A)—

(I) by striking clauses (ii) and (iii);

(II) in clause (i), by adding "or" at the end;

(III) by redesignating clause (i) as clause (ii);

(IV) by inserting before clause (ii) (as so redesignated) the following:

"(i) in the development of educational or recruitment materials and activities, including those materials and activities that specifically promote diversity

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within recruitment, for the water and wastewater utility workforce;"; and

(V) by adding at the end the following:

"(iii) developing activities and strategies that relate to the maintenance and retention of a sustainable workforce in the water and wastewater utility sector; and";

(C) in paragraph (3)—

(i) in subparagraph (D)(ii), by inserting "or certification" after "training"; and

(ii) in subparagraph (E), by striking "ensure that incumbent water and waste water utilities workers" and inserting "are designed to retain incumbent water and wastewater utility workforce workers by ensuring that those workers"; and

(D) by striking paragraph (4) and inserting the following:

"(4) WORKING GROUP; REPORT.—

"(A) IN GENERAL.—The Administrator shall establish and coordinate a Federal interagency working group to address recruitment, training, and retention challenges in the water and wastewater utility workforce, which shall include representatives from—

"(i) the Department of Education;

"(ii) the Department of Labor;

"(iii) the Department of Agriculture;

"(iv) the Department of Veterans Affairs; and

"(v) other Federal agencies, as determined to be appropriate by the Administrator.

"(B) REPORT.—Not later than 2 years after the date of enactment of this subparagraph, the Administrator, in coordination with the working group established under subparagraph (A), shall submit to Congress a report describing potential solutions to recruitment, training, and retention challenges in the water and wastewater utility workforce.

"(C) CONSULTATION.—In carrying out the duties of the working group established under subparagraph (A), the working group shall consult with State operator certification programs.

"(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2022 through 2026.";

(3) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(4) by inserting before subsection (b) (as so redesignated) the following:

"(a) DEFINITION OF PUBLIC WORKS DEPARTMENT OR AGENCY.—In this section, the term 'public works department or agency' means a political subdivision of a local, county, or regional government that designs, builds, operates, and maintains water infrastructure, sewage and refuse disposal systems, and other public water systems and facilities.".

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SEC. 50212. GRANTS TO ALASKA TO IMPROVE SANITATION IN RURAL AND NATIVE VILLAGES.

Section 303 of the Safe Drinking Water Act Amendments of 1996 (33 U.S.C. 1263a) is amended—

(1) in subsection (b), by striking "50 percent" and inserting "75 percent"; and

(2) in subsection (e), by striking "this section" and all that follows through the period at the end and inserting the following: "this section—

"(1) $40,000,000 for each of fiscal years 2022 through 2024;

"(2) $50,000,000 for fiscal year 2025; and

"(3) $60,000,000 for fiscal year 2026.".

SEC. 50213. WATER DATA SHARING PILOT PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Subject to the availability of appropriations, the Administrator shall establish a competitive grant pilot program (referred to in this section as the "pilot program") under which the Administrator may award grants to eligible entities under subsection (b) to establish systems that improve the sharing of information concerning water quality, water infrastructure needs, and water technology, including cybersecurity technology, between States or among counties and other units of local government within a State, which may include—

(A) establishing a website or data hub to exchange water data, including data on water quality or water technology, including new and emerging, but proven, water technology; and

(B) intercounty communications initiatives related to water data.

(2) REQUIREMENTS.—

(A) DATA SHARING.—The Internet of Water principles developed by the Nicholas Institute for Environmental Policy Solutions shall, to the extent practicable, guide any water data sharing efforts under the pilot program.

(B) USE OF EXISTING DATA.—The recipient of a grant under the pilot program to establish a website or data hub described in paragraph (1)(A) shall, to the extent practicable, leverage existing data sharing infrastructure.

(b) ELIGIBLE ENTITIES.—An entity eligible for a grant under the pilot program is—

(1) a State, county, or other unit of local government that—

(A) has a coastal watershed with significant pollution levels;

(B) has a water system with significant pollution levels; or

(C) has significant individual water infrastructure deficits; or

(2) a regional consortium established under subsection (d).

(c) APPLICATIONS.—To be eligible to receive a grant under the pilot program, an eligible entity under subsection (b) shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require.

(d) REGIONAL CONSORTIA.—

(1) ESTABLISHMENT.—States may establish regional consortia in accordance with this subsection.

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(2) REQUIREMENTS.—A regional consortium established under paragraph (1) shall—

(A) include not fewer than 2 States that have entered into a memorandum of understanding—

(i) to exchange water data, including data on water quality; or

(ii) to share information, protocols, and procedures with respect to projects that evaluate, demonstrate, or install new and emerging, but proven, water technology;

(B) carry out projects—

(i) to exchange water data, including data on water quality; or

(ii) that evaluate, demonstrate, or install new and emerging, but proven, water technology; and

(C) develop a regional intended use plan, in accordance with paragraph (3), to identify projects to carry out, including projects using grants received under this section.

(3) REGIONAL INTENDED USE PLAN.—A regional intended use plan of a regional consortium established under paragraph (1)—

(A) shall identify projects that the regional consortium intends to carry out, including projects that meet the requirements of paragraph (2)(B); and

(B) may include—

(i) projects included in an intended use plan of a State prepared under section 606(c) of the Federal Water Pollution Control Act (33 U.S.C. 1386(c)) within the regional consortium; and

(ii) projects not included in an intended use plan of a State prepared under section 606(c) of the Federal Water Pollution Control Act (33 U.S.C. 1386(c)) within the regional consortium.

(e) REPORT.—Not later than 2 years after the date of enactment of this Act, the Administrator shall submit to Congress a report that describes the implementation of the pilot program, which shall include—

(1) a description of the use and deployment of amounts made available under the pilot program; and

(2) an accounting of all grants awarded under the program, including a description of each grant recipient and each project funded using a grant under the pilot program.

(f) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the pilot program $15,000,000 for each of fiscal years 2022 through 2026, to remain available until expended.

(2) REQUIREMENT.—Of the funds made available under paragraph (1), not more than 35 percent may be used to provide grants to regional consortia established under subsection (d).

SEC. 50214. FINAL RATING OPINION LETTERS.

Section 5028(a)(1)(D)(ii) of the Water Infrastructure Finance and Innovation Act of 2014 (33 U.S.C. 3907(a)(1)(D)(ii)) is amended by striking "final rating opinion letters from at least 2 rating agencies" and inserting "a final rating opinion letter from at least 1 rating agency".

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SEC. 50215. WATER INFRASTRUCTURE FINANCING REAUTHORIZATION.

(a) IN GENERAL.—Section 5033 of the Water Infrastructure Finance and Innovation Act of 2014 (33 U.S.C. 3912) is amended—

(1) in subsection (a), by adding at the end the following:

"(3) FISCAL YEARS 2022 THROUGH 2026.—There is authorized to be appropriated to the Administrator to carry out this subtitle $50,000,000 for each of fiscal years 2022 through 2026, to remain available until expended.";

(2) in subsection (b)(2)—

(A) in the paragraph heading, by striking "2020 AND 2021" and inserting "AFTER 2019"; and

(B) by striking "2020 and 2021" and inserting "2022 through 2026"; and

(3) in subsection (e)(1), by striking "2020 and 2021" and inserting "2022 through 2026".

(b) OUTREACH PLAN.—The Water Infrastructure Finance and Innovation Act of 2014 (33 U.S.C. 3901 et seq.) is amended by adding at the end the following:

"SEC. 5036. OUTREACH PLAN.

"(a) DEFINITION OF RURAL COMMUNITY.—In this section, the term 'rural community' means a city, town, or unincorporated area that has a population of not more than 10,000 inhabitants.

"(b) OUTREACH REQUIRED.—Not later than 180 days after the date of enactment of this section, the Administrator, in consultation with relevant Federal agencies, shall develop and begin implementation of an outreach plan to promote financial assistance available under this subtitle to small communities and rural communities.".

SEC. 50216. SMALL AND DISADVANTAGED COMMUNITY ANALYSIS.

(a) ANALYSIS.—Not later than 2 years after the date of enactment of this Act, using environmental justice data of the Environmental Protection Agency, including data from the environmental justice mapping and screening tool of the Environmental Protection Agency, the Administrator shall carry out an analysis under which the Administrator shall assess the programs under title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) and section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12) to identify historical distributions of funds to small and disadvantaged communities and new opportunities and methods to improve on the distribution of funds under those programs to low-income communities, rural communities, minority communities, and communities of indigenous peoples, in accordance with Executive Order 12898 (42 U.S.C. 4321 note; 60 Fed. Reg. 6381; relating to Federal actions to address environmental justice in minority populations and low-income populations).

(b) REQUIREMENT.—The analysis under subsection (a) shall include an analysis, to the extent practicable, of communities in the United States that do not have access to drinking water or wastewater services.

(c) REPORT.—On completion of the analysis under subsection (a), the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committees on Energy and Commerce and Transportation and Infrastructure of the House of Representatives a report describing—

(1) the results of the analysis; and

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(2) the criteria the Administrator used in carrying out the analysis.

SEC. 50217. STORMWATER INFRASTRUCTURE TECHNOLOGY.

(a) DEFINITIONS.—In this section:

(1) CENTER.—The term "center" means a center of excellence for stormwater control infrastructure established under subsection (b)(1).

(2) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a State, Tribal, or local government; or

(B) a local, regional, or other public entity that manages stormwater or wastewater resources or other related water infrastructure.

(3) ELIGIBLE INSTITUTION.—The term "eligible institution" means an institution of higher education, a research institution, or a nonprofit organization—

(A) that has demonstrated excellence in researching and developing new and emerging stormwater control infrastructure technologies; and

(B) with respect to a nonprofit organization, the core mission of which includes water management, as determined by the Administrator.

(b) CENTERS OF EXCELLENCE FOR STORMWATER CONTROL INFRASTRUCTURE TECHNOLOGIES.—

(1) ESTABLISHMENT OF CENTERS.—

(A) IN GENERAL.—Subject to the availability of appropriations, the Administrator shall provide grants, on a competitive basis, to eligible institutions to establish and maintain not less than 3, and not more than 5, centers of excellence for new and emerging stormwater control infrastructure technologies, to be located in various regions throughout the United States.

(B) GENERAL OPERATION.—Each center shall—

(i) conduct research on new and emerging stormwater control infrastructure technologies that are relevant to the geographical region in which the center is located, including stormwater and sewer overflow reduction, other approaches to water resource enhancement, alternative funding approaches, and other environmental, economic, and social benefits, with the goal of improving the effectiveness, cost efficiency, and protection of public safety and water quality;

(ii) maintain a listing of—

(I) stormwater control infrastructure needs; and

(II) an analysis of new and emerging stormwater control infrastructure technologies that are available;

(iii) analyze whether additional financial programs for the implementation of new and emerging, but proven, stormwater control infrastructure technologies would be useful;

(iv) provide information regarding research conducted under clause (i) to the national electronic clearinghouse center for publication on the Internet website established under paragraph (3)(B)(i) to provide to the Federal Government and State, Tribal,

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and local governments and the private sector information regarding new and emerging, but proven, stormwater control infrastructure technologies;

(v) provide technical assistance to State, Tribal, and local governments to assist with the design, construction, operation, and maintenance of stormwater control infrastructure projects that use innovative technologies;

(vi) collaborate with institutions of higher education and private and public organizations, including community-based public-private partnerships and other stakeholders, in the geographical region in which the center is located; and

(vii) coordinate with the other centers to avoid duplication of efforts.

(2) APPLICATION.—To be eligible to receive a grant under this subsection, an eligible institution shall prepare and submit to the Administrator an application at such time, in such form, and containing such information as the Administrator may require.

(3) NATIONAL ELECTRONIC CLEARINGHOUSE CENTER.—Of the centers established under paragraph (1)(A), 1 shall—

(A) be designated as the "national electronic clearinghouse center"; and

(B) in addition to the other functions of that center—

(i) develop, operate, and maintain an Internet website and a public database that contains information relating to new and emerging, but proven, stormwater control infrastructure technologies; and

(ii) post to the website information from all centers.

(4) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There is authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2022 through 2026.

(B) LIMITATION ON USE OF FUNDS.—Of the amounts made available for grants under subparagraph (A), not more than 2 percent may be used to pay the administrative costs of the Administrator.

(c) STORMWATER CONTROL INFRASTRUCTURE PROJECT GRANTS.—

(1) GRANT AUTHORITY.—Subject to the availability of appropriations, the Administrator shall provide grants, on a competitive basis, to eligible entities to carry out stormwater control infrastructure projects that incorporate new and emerging, but proven, stormwater control technologies in accordance with this subsection.

(2) STORMWATER CONTROL INFRASTRUCTURE PROJECTS.—

(A) PLANNING AND DEVELOPMENT GRANTS.—The Administrator may make planning and development grants under this subsection for the following projects:

(i) Planning and designing stormwater control infrastructure projects that incorporate new and emerging, but proven, stormwater control technologies, including engineering surveys, landscape plans, maps, long-term operations and maintenance plans, and implementation plans.

(ii) Identifying and developing standards necessary to accommodate stormwater control infrastructure

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projects, including those projects that incorporate new and emerging, but proven, stormwater control technologies.

(iii) Identifying and developing fee structures to provide financial support for design, installation, and operations and maintenance of stormwater control infrastructure, including new and emerging, but proven, stormwater control infrastructure technologies.

(iv) Developing approaches for community-based public-private partnerships for the financing and construction of stormwater control infrastructure technologies, including feasibility studies, stakeholder outreach, and needs assessments.

(v) Developing and delivering training and educational materials regarding new and emerging, but proven, stormwater control infrastructure technologies for distribution to—

(I) individuals and entities with applicable technical knowledge; and

(II) the public.

(B) IMPLEMENTATION GRANTS.—The Administrator may make implementation grants under this subsection for the following projects:

(i) Installing new and emerging, but proven, stormwater control infrastructure technologies.

(ii) Protecting or restoring interconnected networks of natural areas that protect water quality.

(iii) Monitoring and evaluating the environmental, economic, or social benefits of stormwater control infrastructure technologies that incorporate new and emerging, but proven, stormwater control technology.

(iv) Implementing a best practices standard for stormwater control infrastructure programs.

(3) APPLICATION.—Except as otherwise provided in this section, to be eligible to receive a grant under this subsection, an eligible entity shall prepare and submit to the Administrator an application at such time, in such form, and containing such information as the Administrator may require, including, as applicable—

(A) a description of the stormwater control infrastructure project that incorporates new and emerging, but proven, technologies;

(B) a plan for monitoring the impacts and pollutant load reductions associated with the stormwater control infrastructure project on the water quality and quantity;

(C) an evaluation of other environmental, economic, and social benefits of the stormwater control infrastructure project; and

(D) a plan for the long-term operation and maintenance of the stormwater control infrastructure project and a tracking system, such as asset management practices.

(4) PRIORITY.—In making grants under this subsection, the Administrator shall give priority to applications submitted on behalf of—

(A) a community that—

(i) has municipal combined storm and sanitary sewers in the collection system of the community; or

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(ii) is a small, rural, or disadvantaged community, as determined by the Administrator; or

(B) an eligible entity that will use not less than 15 percent of the grant to provide service to a small, rural, or disadvantaged community, as determined by the Administrator.

(5) MAXIMUM AMOUNTS.—

(A) PLANNING AND DEVELOPMENT GRANTS.—

(i) SINGLE GRANT.—The amount of a single planning and development grant provided under this subsection shall be not more than $200,000.

(ii) AGGREGATE AMOUNT.—The total amount of all planning and development grants provided under this subsection for a fiscal year shall be not more than ⅓ of the total amount made available to carry out this subsection.

(B) IMPLEMENTATION GRANTS.—

(i) SINGLE GRANT.—The amount of a single implementation grant provided under this subsection shall be not more than $2,000,000.

(ii) AGGREGATE AMOUNT.—The total amount of all implementation grants provided under this subsection for a fiscal year shall be not more than ⅔ of the total amount made available to carry out this subsection.

(6) FEDERAL SHARE.—

(A) IN GENERAL.—Except as provided in subparagraph (C), the Federal share of a grant provided under this subsection shall not exceed 80 percent of the total project cost.

(B) CREDIT FOR IMPLEMENTATION GRANTS.—The Administrator shall credit toward the non-Federal share of the cost of an implementation project carried out under this subsection the cost of planning, design, and construction work completed for the project using funds other than funds provided under this section.

(C) EXCEPTION.—The Administrator may waive the Federal share limitation under subparagraph (A) for an eligible entity that has adequately demonstrated financial need.

(d) REPORT TO CONGRESS.—Not later than 2 years after the date on which the Administrator first awards a grant under this section, the Administrator shall submit to Congress a report that includes, with respect to the period covered by the report—

(1) a description of all grants provided under this section;

(2) a detailed description of—

(A) the projects supported by those grants; and

(B) the outcomes of those projects;

(3) a description of the improvements in technology, environmental benefits, resources conserved, efficiencies, and other benefits of the projects funded under this section;

(4) recommendations for improvements to promote and support new and emerging, but proven, stormwater control infrastructure, including research into new and emerging technologies, for the centers, grants, and activities under this section; and

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(5) a description of existing challenges concerning the use of new and emerging, but proven, stormwater control infrastructure.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section (except for subsection (b)) $10,000,000 for each of fiscal years 2022 through 2026.

(2) LIMITATION ON USE OF FUNDS.—Of the amounts made available for grants under paragraph (1), not more than 2 percent may be used to pay the administrative costs of the Administrator.

SEC. 50218. WATER REUSE INTERAGENCY WORKING GROUP.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall establish a Water Reuse Interagency Working Group (referred to in this section as the "Working Group").

(b) PURPOSE.—The purpose of the Working Group is to develop and coordinate actions, tools, and resources to advance water reuse across the United States, including through the implementation of the February 2020 National Water Reuse Action Plan, which creates opportunities for water reuse in the mission areas of each of the Federal agencies included in the Working Group under subsection (c) (referred to in this section as the "Action Plan").

(c) CHAIRPERSON; MEMBERSHIP.—The Working Group shall be—

(1) chaired by the Administrator; and

(2) comprised of senior representatives from such Federal agencies as the Administrator determines to be appropriate.

(d) DUTIES OF THE WORKING GROUP.—In carrying out this section, the Working Group shall—

(1) with respect to water reuse, leverage the expertise of industry, the research community, nongovernmental organizations, and government;

(2) seek to foster water reuse as an important component of integrated water resources management;

(3) conduct an assessment of new opportunities to advance water reuse and annually update the Action Plan with new actions, as necessary, to pursue those opportunities;

(4) seek to coordinate Federal programs and policies to support the adoption of water reuse;

(5) consider how each Federal agency can explore and identify opportunities to support water reuse through the programs and activities of that Federal agency; and

(6) consult, on a regular basis, with representatives of relevant industries, the research community, and nongovernmental organizations.

(e) REPORT.—Not less frequently than once every 2 years, the Administrator shall submit to Congress a report on the activities and findings of the Working Group.

(f) SUNSET.—

(1) IN GENERAL.—Subject to paragraph (2), the Working Group shall terminate on the date that is 6 years after the date of enactment of this Act.

(2) EXTENSION.—The Administrator may extend the date of termination of the Working Group under paragraph (1).

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SEC. 50219. ADVANCED CLEAN WATER TECHNOLOGIES STUDY.

(a) IN GENERAL.—Subject to the availability of appropriations, not later than 2 years after the date of enactment of this Act, the Administrator shall carry out a study that examines the state of existing and potential future technology, including technology that could address cybersecurity vulnerabilities, that enhances or could enhance the treatment, monitoring, affordability, efficiency, and safety of wastewater services provided by a treatment works (as defined in section 212 of the Federal Water Pollution Control Act (33 U.S.C. 1292)).

(b) REPORT.—The Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that describes the results of the study under subsection (a).

SEC. 50220. CLEAN WATERSHEDS NEEDS SURVEY.

Title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.) is amended by adding at the end the following:

"SEC. 609. CLEAN WATERSHEDS NEEDS SURVEY.

"(a) REQUIREMENT.—Not later than 2 years after the date of enactment of this section, and not less frequently than once every 4 years thereafter, the Administrator shall—

"(1) conduct and complete an assessment of capital improvement needs for all projects that are eligible under section 603(c) for assistance from State water pollution control revolving funds; and

"(2) submit to Congress a report describing the results of the assessment completed under paragraph (1).

"(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the initial needs survey under subsection (a) $5,000,000, to remain available until expended.".

SEC. 50221. WATER RESOURCES RESEARCH ACT AMENDMENTS.

(a) CLARIFICATION OF RESEARCH ACTIVITIES.—Section 104(b)(1) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(b)(1)) is amended—

(1) in subparagraph (B)(ii), by striking "water-related phenomena" and inserting "water resources"; and

(2) in subparagraph (D), by striking the period at the end and inserting "; and".

(b) COMPLIANCE REPORT.—Section 104 of the Water Resources Research Act of 1984 (42 U.S.C. 10303) is amended by striking subsection (c) and inserting the following:

"(c) GRANTS.—

"(1) IN GENERAL.—From the sums appropriated pursuant to subsection (f), the Secretary shall make grants to each institute to be matched on a basis of no less than 1 non-Federal dollar for every 1 Federal dollar.

"(2) REPORT.—Not later than December 31 of each fiscal year, the Secretary shall submit to the Committee on Environment and Public Works of the Senate, the Committee on the Budget of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on the Budget of the House of Representatives a report regarding the compliance of each funding recipient with this subsection for the immediately preceding fiscal year.".

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(c) EVALUATION OF WATER RESOURCES RESEARCH PROGRAM.—Section 104 of the Water Resources Research Act of 1984 (42 U.S.C. 10303) is amended by striking subsection (e) and inserting the following:

"(e) EVALUATION OF WATER RESOURCES RESEARCH PROGRAM.—

"(1) IN GENERAL.—The Secretary shall conduct a careful and detailed evaluation of each institute at least once every 5 years to determine—

"(A) the quality and relevance of the water resources research of the institute;

"(B) the effectiveness of the institute at producing measured results and applied water supply research; and

"(C) whether the effectiveness of the institute as an institution for planning, conducting, and arranging for research warrants continued support under this section.

"(2) PROHIBITION ON FURTHER SUPPORT.—If, as a result of an evaluation under paragraph (1), the Secretary determines that an institute does not qualify for further support under this section, no further grants to the institute may be provided until the qualifications of the institute are reestablished to the satisfaction of the Secretary.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 104(f)(1) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(f)(1)) is amended by striking "fiscal years 2007 through 2011" and inserting "fiscal years 2022 through 2025".

(e) ADDITIONAL APPROPRIATIONS WHERE RESEARCH FOCUSED ON WATER PROBLEMS OF INTERSTATE NATURE.—Section 104(g)(1) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(g)(1)) is amended in the first sentence by striking "$6,000,000 for each of fiscal years 2007 through 2011" and inserting "$3,000,000 for each of fiscal years 2022 through 2025".

SEC. 50222. ENHANCED AQUIFER USE AND RECHARGE.

Title I of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) is amended by adding at the end the following:

"SEC. 124. ENHANCED AQUIFER USE AND RECHARGE.

"(a) IN GENERAL.—Subject to the availability of appropriations, the Administrator shall provide funding to carry out groundwater research on enhanced aquifer use and recharge in support of sole-source aquifers, of which—

"(1) not less than 50 percent shall be used to provide 1 grant to a State, unit of local government, or Indian Tribe to carry out activities that would directly support that research; and

"(2) the remainder shall be provided to 1 appropriate research center.

"(b) COORDINATION.—As a condition of accepting funds under subsection (a), the State, unit of local government, or Indian Tribe and the appropriate research center that receive funds under that subsection shall establish a formal research relationship for the purpose of coordinating efforts under this section.

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

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DIVISION F—BROADBAND

TITLE I—BROADBAND GRANTS FOR STATES, DISTRICT OF COLUMBIA, PUERTO RICO, AND TERRITORIES

SEC. 60101. FINDINGS.

Congress finds the following:

(1) Access to affordable, reliable, high-speed broadband is essential to full participation in modern life in the United States.

(2) The persistent "digital divide" in the United States is a barrier to the economic competitiveness of the United States and equitable distribution of essential public services, including health care and education.

(3) The digital divide disproportionately affects communities of color, lower-income areas, and rural areas, and the benefits of broadband should be broadly enjoyed by all.

(4) In many communities across the country, increased competition among broadband providers has the potential to offer consumers more affordable, high-quality options for broadband service.

(5) The 2019 novel coronavirus pandemic has underscored the critical importance of affordable, high-speed broadband for individuals, families, and communities to be able to work, learn, and connect remotely while supporting social distancing.

SEC. 60102. GRANTS FOR BROADBAND DEPLOYMENT.

(a) DEFINITIONS.—

(1) AREAS, LOCATIONS, AND INSTITUTIONS LACKING BROADBAND ACCESS.—In this section:

(A) UNSERVED LOCATION.—The term "unserved location" means a broadband-serviceable location, as determined in accordance with the broadband DATA maps, that—

(i) has no access to broadband service; or

(ii) lacks access to reliable broadband service offered with—

(I) a speed of not less than—

(aa) 25 megabits per second for downloads; and

(bb) 3 megabits per second for uploads; and

(II) a latency sufficient to support real-time, interactive applications.

(B) UNSERVED SERVICE PROJECT.—The term "unserved service project" means a project in which not less than 80 percent of broadband-serviceable locations served by the project are unserved locations.

(C) UNDERSERVED LOCATION.—The term "underserved location" means a location—

(i) that is not an unserved location; and

(ii) as determined in accordance with the broadband DATA maps, lacks access to reliable broadband service offered with—

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(I) a speed of not less than—

(aa) 100 megabits per second for downloads; and

(bb) 20 megabits per second for uploads; and

(II) a latency sufficient to support real-time, interactive applications.

(D) UNDERSERVED SERVICE PROJECT.—The term "underserved service project" means a project in which not less than 80 percent of broadband-serviceable locations served by the project are unserved locations or underserved locations.

(E) ELIGIBLE COMMUNITY ANCHOR INSTITUTION.—The term "eligible community anchor institution" means a community anchor institution that lacks access to gigabit-level broadband service.

(2) OTHER DEFINITIONS.—In this section:

(A) ASSISTANT SECRETARY.—The term "Assistant Secretary" means the Assistant Secretary of Commerce for Communications and Information.

(B) BROADBAND; BROADBAND SERVICE.—The term "broadband" or "broadband service" has the meaning given the term "broadband internet access service" in section 8.1(b) of title 47, Code of Federal Regulations, or any successor regulation.

(C) BROADBAND DATA MAPS.—The term "broadband DATA maps" means the maps created under section 802(c)(1) of the Communications Act of 1934 (47 U.S.C. 642(c)(1)).

(D) COMMISSION.—The term "Commission" means the Federal Communications Commission.

(E) COMMUNITY ANCHOR INSTITUTION.—The term "community anchor institution" means an entity such as a school, library, health clinic, health center, hospital or other medical provider, public safety entity, institution of higher education, public housing organization, or community support organization that facilitates greater use of broadband service by vulnerable populations, including low-income individuals, unemployed individuals, and aged individuals.

(F) ELIGIBLE ENTITY.—The term "eligible entity" means a State.

(G) HIGH-COST AREA.—

(i) IN GENERAL.—The term "high-cost area" means an unserved area in which the cost of building out broadband service is higher, as compared with the average cost of building out broadband service in unserved areas in the United States (as determined by the Assistant Secretary, in consultation with the Commission), incorporating factors that include—

(I) the remote location of the area;

(II) the lack of population density of the area;

(III) the unique topography of the area;

(IV) a high rate of poverty in the area; or

(V) any other factor identified by the Assistant Secretary, in consultation with the Commission,

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that contributes to the higher cost of deploying broadband service in the area.

(ii) UNSERVED AREA.—For purposes of clause (i), the term "unserved area" means an area in which not less than 80 percent of broadband-serviceable locations are unserved locations.

(H) LOCATION; BROADBAND-SERVICEABLE LOCATION.—The terms "location" and "broadband-serviceable location" have the meanings given those terms by the Commission under rules and guidance that are in effect, as of the date of enactment of this Act.

(I) PRIORITY BROADBAND PROJECT.—The term "priority broadband project" means a project designed to—

(i) provide broadband service that meets speed, latency, reliability, consistency in quality of service, and related criteria as the Assistant Secretary shall determine; and

(ii) ensure that the network built by the project can easily scale speeds over time to—

(I) meet the evolving connectivity needs of households and businesses; and

(II) support the deployment of 5G, successor wireless technologies, and other advanced services.

(J) PROGRAM.—The term "Program" means the Broadband Equity, Access, and Deployment Program established under subsection (b)(1).

(K) PROJECT.—The term "project" means an undertaking by a subgrantee under this section to construct and deploy infrastructure for the provision of broadband service.

(L) RELIABLE BROADBAND SERVICE.—The term "reliable broadband service" means broadband service that meets performance criteria for service availability, adaptability to changing end-user requirements, length of serviceable life, or other criteria, other than upload and download speeds, as determined by the Assistant Secretary in coordination with the Commission.

(M) STATE.—The term "State" has the meaning given the term in section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942), except that that definition shall be applied by striking ", and any other territory or possession of the United States".

(N) SUBGRANTEE.—The term "subgrantee" means an entity that receives grant funds from an eligible entity to carry out activities under subsection (f).

(b) BROADBAND EQUITY, ACCESS, AND DEPLOYMENT PROGRAM.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Assistant Secretary shall establish a grant program, to be known as the "Broadband Equity, Access, and Deployment Program", under which the Assistant Secretary makes grants to eligible entities, in accordance with this section, to bridge the digital divide.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Assistant Secretary to carry out the Program $42,450,000,000.

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(3) OBLIGATION TIMELINE.—The Assistant Secretary shall obligate all amounts appropriated pursuant to paragraph (2) in an expedient manner after the Assistant Secretary issues the notice of funding opportunity under subsection (e)(1).

(4) TECHNICAL SUPPORT AND ASSISTANCE.—

(A) PROGRAM ASSISTANCE.—As part of the Program, the Assistant Secretary, in consultation with the Commission, shall provide technical support and assistance to eligible entities to facilitate their participation in the Program, including by assisting eligible entities with—

(i) the development of grant applications under the Program;

(ii) the development of plans and procedures for distribution of funds under the Program; and

(iii) other technical support as determined by the Assistant Secretary.

(B) GENERAL ASSISTANCE.—The Assistant Secretary shall provide technical and other assistance to eligible entities—

(i) to support the expansion of broadband, with priority for—

(I) expansion in rural areas; and

(II) eligible entities that consistently rank below most other eligible entities with respect to broadband access and deployment; and

(ii) regarding cybersecurity resources and programs available through Federal agencies, including the Election Assistance Commission, the Cybersecurity and Infrastructure Security Agency, the Federal Trade Commission, and the National Institute of Standards and Technology.

(c) ALLOCATION.—

(1) ALLOCATION FOR HIGH-COST AREAS.—

(A) IN GENERAL.—On or after the date on which the broadband DATA maps are made public, the Assistant Secretary shall allocate to eligible entities, in accordance with subparagraph (B) of this paragraph, 10 percent of the amount appropriated pursuant to subsection (b)(2).

(B) FORMULA.—The Assistant Secretary shall calculate the amount allocated to an eligible entity under subparagraph (A) by—

(i) dividing the number of unserved locations in high-cost areas in the eligible entity by the total number of unserved locations in high-cost areas in the United States; and

(ii) multiplying the quotient obtained under clause (i) by the amount made available under subparagraph (A).

(2) MINIMUM INITIAL ALLOCATION.—Of the amount appropriated pursuant to subsection (b)(2)—

(A) except as provided in subparagraph (B) of this paragraph, $100,000,000 shall be allocated to each State; and

(B) $100,000,000 shall be allocated to, and divided equally among, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

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(3) ALLOCATION OF REMAINING AMOUNTS.—

(A) IN GENERAL.—On or after the date on which the broadband DATA maps are made public, of the amount appropriated pursuant to subsection (b)(2), the Assistant Secretary shall allocate to eligible entities, in accordance with subparagraph (B) of this paragraph, the amount remaining after compliance with paragraphs (1) and (2) of this subsection.

(B) ALLOCATION.—The amount allocated to an eligible entity under subparagraph (B) shall be calculated by—

(i) dividing the number of unserved locations in the eligible entity by the total number of unserved locations in the United States; and

(ii) multiplying the quotient obtained under clause (i) by the amount made available under subparagraph (A).

(4) AVAILABILITY CONDITIONED ON APPROVAL OF APPLICATIONS.—The availability of amounts allocated under paragraph (1), (2), or (3) to an eligible entity shall be subject to approval by the Assistant Secretary of the letter of intent, initial proposal, or final proposal of the eligible entity, as applicable, under subsection (e).

(5) CONTINGENCY PROCEDURES.—

(A) DEFINITION.—In this paragraph, the term "covered application" means a letter of intent, initial proposal, or final proposal under this section.

(B) POLITICAL SUBDIVISIONS AND CONSORTIA.—

(i) APPLICATION FAILURES.—The Assistant Secretary, in carrying out the Program, shall provide that if an eligible entity fails to submit a covered application by the applicable deadline, or a covered application submitted by an eligible entity is not approved by the applicable deadline, a political subdivision or consortium of political subdivisions of the eligible entity may submit the applicable type of covered application in place of the eligible entity.

(ii) TREATMENT OF POLITICAL SUBDIVISION OR CONSORTIUM AS ELIGIBLE ENTITY.—In the case of a political subdivision or consortium of political subdivisions that submits a covered application under clause (i) that is approved by the Assistant Secretary—

(I) except as provided in subclause (II) of this clause, any reference in this section to an eligible entity shall be deemed to refer to the political subdivision or consortium; and

(II) any reference in this section to an eligible entity in a geographic sense shall be deemed to refer to the eligible entity in whose place the political subdivision or consortium submitted the covered application.

(C) REALLOCATION TO OTHER ELIGIBLE ENTITIES.—

(i) APPLICATION FAILURES.—The Assistant Secretary, in carrying out the Program, shall provide that if an eligible entity fails to submit a covered application by the applicable deadline, or a covered application submitted by an eligible entity is not approved by the applicable deadline, as provided in subparagraph

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(A)), and no political subdivision or consortium of political subdivisions of the eligible entity submits a covered application by the applicable deadline, or no covered application submitted by such a political subdivision or consortium is approved by the applicable deadline, as provided in subparagraph (B), the Assistant Secretary—

(I) shall reallocate the amounts that would have been available to the eligible entity pursuant to that type of covered application to other eligible entities that submitted that type of covered application by the applicable deadline; and

(II) shall reallocate the amounts described in subclause (I) of this clause in accordance with the formula under paragraph (3).

(ii) FAILURE TO USE FULL ALLOCATION.—The Assistant Secretary, in carrying out the Program, shall provide that if an eligible entity fails to use the full amount allocated to the eligible entity under this subsection by the applicable deadline, the Assistant Secretary—

(I) shall reallocate the unused amounts to other eligible entities with approved final proposals; and

(II) shall reallocate the amounts described in subclause (I) in accordance with the formula under paragraph (3).

(d) ADMINISTRATIVE EXPENSES.—

(1) ASSISTANT SECRETARY.—The Assistant Secretary may use not more than 2 percent of amounts appropriated pursuant to subsection (b) for administrative purposes.

(2) ELIGIBLE ENTITIES.—

(A) PRE-DEPLOYMENT PLANNING.—An eligible entity may use not more than 5 percent of the amount allocated to the eligible entity under subsection (c)(2) for the planning and pre-deployment activities under subsection (e)(1)(C).

(B) ADMINISTRATION.—An eligible entity may use not more than 2 percent of the grant amounts made available to the eligible entity under subsection (e) for expenses relating (directly or indirectly) to administration of the grant.

(e) IMPLEMENTATION.—

(1) INITIAL PROGRAM DEPLOYMENT AND PLANNING.—

(A) NOTICE OF FUNDING OPPORTUNITY; PROCESS.—Not later than 180 days after the date of enactment of this Act, the Assistant Secretary shall—

(i) issue a notice of funding opportunity for the Program that—

(I) notifies eligible entities of—

(aa) the establishment of the Program; and

(bb) the amount of the minimum initial allocation to each eligible entity under subsection (c)(2);

(II) invites eligible entities to submit letters of intent under subparagraph (B) in order to—

(aa) participate in the Program; and

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(bb) receive funding for planning and pre-deployment activities under subparagraph (C);

(III) contains details about the Program, including an outline of the requirements for—

(aa) applications for grants under the Program, which shall consist of letters of intent, initial proposals, and final proposals; and

(bb) allowed uses of grant amounts awarded under this section, as provided in subsection (f); and

(IV) includes any other information determined relevant by the Assistant Secretary;

(ii) establish a process, in accordance with subparagraph (C), through which to provide funding to eligible entities for planning and pre-deployment activities;

(iii) develop and make public a standard online application form that an eligible entity may use to submit an initial proposal and final proposal for the grant amounts allocated to the eligible entity under subsection (c);

(iv) publish a template—

(I) initial proposal that complies with paragraph (3)(A); and

(II) final proposal that complies with paragraph (4)(A); and

(v) in consultation with the Commission, establish standards for how an eligible entity shall assess the capabilities and capacities of a prospective subgrantee under subsection (g)(2)(A).

(B) LETTER OF INTENT.—

(i) IN GENERAL.—An eligible entity that wishes to participate in the Program shall file a letter of intent to participate in the Program consistent with this subparagraph.

(ii) FORM AND CONTENTS.—The Assistant Secretary may establish the form and contents required for a letter of intent under this subparagraph, which contents may include—

(I) details of—

(aa) the existing broadband program or office of the eligible entity, including—

(AA) activities that the program or office currently conducts;

(BB) the number of rounds of broadband deployment grants that the eligible entity has awarded, if applicable;

(CC) whether the eligible entity has an eligible entity-wide plan and goal for availability of broadband, and any relevant deadlines, as applicable; and

(DD) the amount of funding that the eligible entity has available for broadband deployment or other broadband-related activities, including data collection and local planning, and the sources of that funding, including whether the funds are

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from the eligible entity or from the Federal Government under the American Rescue Plan Act of 2021 (Public Law 117–2);

(bb) the number of full-time employees and part-time employees of the eligible entity who will assist in administering amounts received under the Program and the duties assigned to those employees;

(cc) relevant contracted support; and

(dd) the goals of the eligible entity for the use of amounts received under the Program, the process that the eligible entity will use to distribute those amounts to subgrantees, the timeline for awarding subgrants, and oversight and reporting requirements that the eligible entity will impose on subgrantees;

(II) the identification of known barriers or challenges to developing and administering a program to administer grants received under the Program, if applicable;

(III) the identification of the additional capacity needed by the eligible entity to implement the requirements under this section, such as—

(aa) enhancing the capacity of the broadband program or office of the eligible entity by receiving technical assistance from Federal entities or other partners, hiring additional employees, or obtaining support from contracted entities; or

(bb) acquiring additional programmatic information or data, such as through surveys or asset inventories;

(IV) an explanation of how the needs described in subclause (III) were identified and how funds may be used to address those needs, including target areas;

(V) details of any relevant partners, such as organizations that may inform broadband deployment and adoption planning; and

(VI) any other information determined relevant by the Assistant Secretary.

(C) PLANNING FUNDS.—

(i) IN GENERAL.—The Assistant Secretary shall establish a process through which an eligible entity, in submitting a letter of intent under subparagraph (B), may request access to not more than 5 percent of the amount allocated to the eligible entity under subsection (c)(2) for use consistent with this subparagraph.

(ii) FUNDING AVAILABILITY.—If the Assistant Secretary approves a request from an eligible entity under clause (i), the Assistant Secretary shall make available to the eligible entity an amount, as determined appropriate by the Assistant Secretary, that is not more than 5 percent of the amount allocated to the eligible entity under subsection (c)(2).

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(iii) ELIGIBLE USE.—The Assistant Secretary shall determine the allowable uses of amounts made available under clause (ii), which may include—

(I) research and data collection, including initial identification of unserved locations and underserved locations;

(II) the development of a preliminary budget for pre-planning activities;

(III) publications, outreach, and communications support;

(IV) providing technical assistance, including through workshops and events;

(V) training for employees of the broadband program or office of the eligible entity or employees of political subdivisions of the eligible entity, and related staffing capacity or consulting or contracted support; and

(VI) with respect to an office that oversees broadband programs and broadband deployment in an eligible entity, establishing, operating, or increasing the capacity of such a broadband office.

(D) ACTION PLAN.—

(i) IN GENERAL.—An eligible entity that receives funding from the Assistant Secretary under subparagraph (C) shall submit to the Assistant Secretary a 5-year action plan, which shall—

(I) be informed by collaboration with local and regional entities; and

(II) detail—

(aa) investment priorities and associated costs;

(bb) alignment of planned spending with economic development, telehealth, and related connectivity efforts.

(ii) REQUIREMENTS OF ACTION PLANS.—The Assistant Secretary shall establish requirements for the 5-year action plan submitted by an eligible entity under clause (i), which may include requirements to—

(I) address local and regional needs in the eligible entity with respect to broadband service;

(II) propose solutions for the deployment of affordable broadband service in the eligible entity;

(III) include localized data with respect to the deployment of broadband service in the eligible entity, including by identifying locations that should be prioritized for Federal support with respect to that deployment;

(IV) ascertain how best to serve unserved locations in the eligible entity, whether through the establishment of cooperatives or public-private partnerships;

(V) identify the technical assistance that would be necessary to carry out the plan; and

(VI) assess the amount of time it would take to build out universal broadband service in the eligible entity.

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(2) NOTICE OF AVAILABLE AMOUNTS; INVITATION TO SUBMIT INITIAL AND FINAL PROPOSALS.—On or after the date on which the broadband DATA maps are made public, the Assistant Secretary, in coordination with the Commission, shall issue a notice to each eligible entity that—

(A) contains the estimated amount available to the eligible entity under subsection (c); and

(B) invites the eligible entity to submit an initial proposal and final proposal for a grant under this section, in accordance with paragraphs (3) and (4) of this subsection.

(3) INITIAL PROPOSAL.—

(A) SUBMISSION.—

(i) IN GENERAL.—After the Assistant Secretary issues the notice under paragraph (2), an eligible entity that wishes to receive a grant under this section shall submit an initial proposal for a grant, using the online application form developed by the Assistant Secretary under paragraph (1)(A)(iii), that—

(I) outlines long-term objectives for deploying broadband, closing the digital divide, and enhancing economic growth and job creation, including—

(aa) information developed by the eligible entity as part of the action plan submitted under paragraph (1)(D), if applicable; and

(bb) information from any comparable strategic plan otherwise developed by the eligible entity, if applicable;

(II)(aa) identifies, and outlines steps to support, local and regional broadband planning processes or ongoing efforts to deploy broadband or close the digital divide; and

(bb) describes coordination with local governments, along with local and regional broadband planning processes;

(III) identifies existing efforts funded by the Federal Government or a State within the jurisdiction of the eligible entity to deploy broadband and close the digital divide;

(IV) includes a plan to competitively award subgrants to ensure timely deployment of broadband;

(V) identifies—

(aa) each unserved location or underserved location under the jurisdiction of the eligible entity; and

(bb) each community anchor institution under the jurisdiction of the eligible entity that is an eligible community anchor institution; and

(VI) certifies the intent of the eligible entity to comply with all applicable requirements under this section, including the reporting requirements under subsection (j)(1).

(ii) LOCAL COORDINATION.—

(I) IN GENERAL.—The Assistant Secretary shall establish local coordination requirements for

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eligible entities to follow, to the greatest extent practicable.

(II) REQUIREMENTS.— The local coordination requirements established under subclause (I) shall include, at minimum, an opportunity for political subdivisions of an eligible entity to—

(aa) submit plans for consideration by the eligible entity; and

(bb) comment on the initial proposal of the eligible entity before the initial proposal is submitted to the Assistant Secretary.

(B) SINGLE INITIAL PROPOSAL.—An eligible entity may submit only 1 initial proposal under this paragraph.

(C) CORRECTIONS TO INITIAL PROPOSAL.—The Assistant Secretary may accept corrections to the initial proposal of an eligible entity after the initial proposal has been submitted.

(D) CONSIDERATION OF INITIAL PROPOSAL.—After receipt of an initial proposal for a grant under this paragraph, the Assistant Secretary—

(i) shall acknowledge receipt;

(ii) if the initial proposal is complete—

(I) shall determine whether the use of funds proposed in the initial proposal—

(aa) complies with subsection (f);

(bb) is in the public interest; and

(cc) effectuates the purposes of this Act;

(II) shall approve or disapprove the initial proposal based on the determinations under subclause (I); and

(III) if the Assistant Secretary approves the initial proposal under clause (ii)(II), shall make available to the eligible entity—

(aa) 20 percent of the grant funds that were allocated to the eligible entity under subsection (c); or

(bb) a higher percentage of the grant funds that were allocated to the eligible entity under subsection (c), at the discretion of the Assistant Secretary; and

(iii) if the initial proposal is incomplete, or is disapproved under clause (ii)(II), shall notify the eligible entity and provide the eligible entity with an opportunity to resubmit the initial proposal.

(E) CONSIDERATION OF RESUBMITTED INITIAL PROPOSAL.—After receipt of a resubmitted initial proposal for a grant under this paragraph, the Assistant Secretary—

(i) shall acknowledge receipt;

(ii) if the initial proposal is complete—

(I) shall determine whether the use of funds proposed in the initial proposal—

(aa) complies with subsection (f);

(bb) is in the public interest; and

(cc) effectuates the purposes of this Act;

(II) shall approve or disapprove the initial proposal based on the determinations under subclause (I); and

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(III) if the Assistant Secretary approves the initial proposal under clause (ii)(II), shall make available to the eligible entity—

(aa) 20 percent of the grant funds that were allocated to the eligible entity under subsection (c); or

(bb) a higher percentage of the grant funds that were allocated to the eligible entity under subsection (c), at the discretion of the Assistant Secretary; and

(iii) if the initial proposal is incomplete, or is disapproved under clause (ii)(II), shall notify the eligible entity and provide the eligible entity with an opportunity to resubmit the initial proposal.

(4) FINAL PROPOSAL.—

(A) SUBMISSION.—

(i) IN GENERAL.—After the Assistant Secretary approvals the initial proposal of an eligible entity under paragraph (3), the eligible entity may submit a final proposal for the remainder of the amount allocated to the eligible entity under subsection (c), using the online application form developed by the Assistant Secretary under paragraph (1)(A)(iii), that includes—

(I) a detailed plan that specifies how the eligible entity will—

(aa) allocate grant funds for the deployment of broadband networks to unserved locations and underserved locations, in accordance with subsection (h)(1)(A)(i); and

(bb) align the grant funds allocated to the eligible entity under subsection (c), where practicable, with the use of other funds that the eligible entity receives from the Federal Government, a State, or a private entity for related purposes;

(II) a timeline for implementation;

(III) processes for oversight and accountability to ensure the proper use of the grant funds allocated to the eligible entity under subsection (c); and

(IV) a description of coordination with local governments, along with local and regional broadband planning processes.

(ii) LOCAL COORDINATION.—

(I) IN GENERAL.—The Assistant Secretary shall establish local coordination requirements for eligible entities to follow, to the greatest extent practicable.

(II) REQUIREMENTS.— The local coordination requirements established under subclause (I) shall include, at minimum, an opportunity for political subdivisions of an eligible entity to—

(aa) submit plans for consideration by the eligible entity; and

(bb) comment on the final proposal of the eligible entity before the final proposal is submitted to the Assistant Secretary.

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(iii) FEDERAL COORDINATION.—To ensure efficient and effective use of taxpayer funds, an eligible entity shall, to the greatest extent practicable, align the use of grant funds proposed in the final proposal under clause (i) with funds available from other Federal programs that support broadband deployment and access.

(B) SINGLE FINAL PROPOSAL.—An eligible entity may submit only 1 final proposal under this paragraph.

(C) CORRECTIONS TO FINAL PROPOSAL.—The Assistant Secretary may accept corrections to the final proposal of an eligible entity after the final proposal has been submitted.

(D) CONSIDERATION OF FINAL PROPOSAL.—After receipt of a final proposal for a grant under this paragraph, the Assistant Secretary—

(i) shall acknowledge receipt;

(ii) if the final proposal is complete—

(I) shall determine whether the use of funds proposed in the final proposal—

(aa) complies with subsection (f);

(bb) is in the public interest; and

(cc) effectuates the purposes of this Act;

(II) shall approve or disapprove the final proposal based on the determinations under subclause (I); and

(III) if the Assistant Secretary approves the final proposal under clause (ii)(II), shall make available to the eligible entity the remainder of the grant funds allocated to the eligible entity under subsection (c); and

(iii) if the final proposal is incomplete, or is disapproved under clause (ii)(II), shall notify the eligible entity and provide the eligible entity with an opportunity to resubmit the final proposal.

(E) CONSIDERATION OF RESUBMITTED FINAL PROPOSAL.—After receipt of a resubmitted final proposal for a grant under this paragraph, the Assistant Secretary—

(i) shall acknowledge receipt;

(ii) if the final proposal is complete—

(I) shall determine whether the use of funds proposed in the final proposal—

(aa) complies with subsection (f);

(bb) is in the public interest; and

(cc) effectuates the purposes of this Act;

(II) shall approve or disapprove the final proposal based on the determinations under subclause (I); and

(III) if the Assistant Secretary approves the final proposal under clause (ii)(II), shall make available to the eligible entity the remainder of the grant funds allocated to the eligible entity under subsection (c); and

(iii) if the final proposal is incomplete, or is disapproved under clause (ii)(II), shall notify the eligible entity and provide the eligible entity with an opportunity to resubmit the final proposal.

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(f) USE OF FUNDS.—An eligible entity may use grant funds received under this section to competitively award subgrants for—

(1) unserved service projects and underserved service projects;

(2) connecting eligible community anchor institutions;

(3) data collection, broadband mapping, and planning;

(4) installing internet and Wi-Fi infrastructure or providing reduced-cost broadband within a multi-family residential building, with priority given to a residential building that—

(A) has a substantial share of unserved households; or

(B) is in a location in which the percentage of individuals with a household income that is at or below 150 percent of the poverty line applicable to a family of the size involved (as determined under section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) is higher than the national percentage of such individuals;

(5) broadband adoption, including programs to provide affordable internet-capable devices; and

(6) any use determined necessary by the Assistant Secretary to facilitate the goals of the Program.

(g) GENERAL PROGRAM REQUIREMENTS.—

(1) SUBGRANTEE OBLIGATIONS.—A subgrantee, in carrying out activities using amounts received from an eligible entity under this section—

(A) shall adhere to quality-of-service standards, as established by the Assistant Secretary;

(B) shall comply with prudent cybersecurity and supply chain risk management practices, as specified by the Assistant Secretary, in consultation with the Director of the National Institute of Standards and Technology and the Commission;

(C) shall incorporate best practices, as defined by the Assistant Secretary, for ensuring reliability and resilience of broadband infrastructure; and

(D) may not use the amounts to purchase or support—

(i) any covered communications equipment or service, as defined in section 9 of the Secure and Trusted Communications Networks Act of 2019 (47 U.S.C. 1608); or

(ii) fiber optic cable and optical transmission equipment manufactured in the People's Republic of China, except that the Assistant Secretary may waive the application of this clause with respect to a project if the eligible entity that awards a subgrant for the project shows that such application would unreasonably increase the cost of the project.

(2) ELIGIBLE ENTITY OBLIGATIONS.—In distributing funds to subgrantees under this section, an eligible entity shall—

(A) ensure that any prospective subgrantee—

(i) is capable of carrying out activities funded by the subgrant in a competent manner in compliance with all applicable Federal, State, and local laws;

(ii) has the financial and managerial capacity to meet—

(I) the commitments of the subgrantee under the subgrant;

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(II) the requirements of the Program; and

(III) such requirements as may be further prescribed by the Assistant Secretary; and

(iii) has the technical and operational capability to provide the services promised in the subgrant in the manner contemplated by the subgrant award;

(B) stipulate, in any contract with a subgrantee for the use of such funds, reasonable provisions for recovery of funds for nonperformance; and

(C)(i) distribute the funds in an equitable and nondiscriminatory manner; and

(ii) ensure, through a stipulation in any contract with a subgrantee for the use of such funds, that each subgrantee uses the funds in an equitable and nondiscriminatory manner.

(3) DEOBLIGATION OF AWARDS; INTERNET DISCLOSURE.—The Assistant Secretary—

(A) shall establish, in coordination with relevant Federal and State partners, appropriate mechanisms to ensure appropriate use of funds made available under this section;

(B) may, in addition to other authority under applicable law—

(i) deobligate grant funds awarded to an eligible entity that—

(I) violates paragraph (2); or

(II) demonstrates an insufficient level of performance, or wasteful or fraudulent spending, as defined in advance by the Assistant Secretary; and

(ii) award grant funds that are deobligated under clause (i) to new or existing applicants consistent with this section; and

(C) shall create and maintain a fully searchable database, accessible on the internet at no cost to the public, that contains information sufficient to allow the public to understand and monitor grants and subgrants awarded under the Program.

(h) BROADBAND NETWORK DEPLOYMENT.—

(1) ORDER OF AWARDS; PRIORITY.—

(A) IN GENERAL.—An eligible entity, in awarding subgrants for the deployment of a broadband network using grant funds received under this section, as authorized under subsection (f)(1)—

(i) shall award funding in a manner that—

(I) prioritizes unserved service projects;

(II) after certifying to the Assistant Secretary that the eligible entity will ensure coverage of broadband service to all unserved locations within the eligible entity, prioritizes underserved service projects; and

(III) after prioritizing underserved service projects, provides funding to connect eligible community anchor institutions;

(ii) in providing funding under subclauses (I), (II), and (III) of clause (i), shall prioritize funding for deployment of broadband infrastructure for priority broadband projects;

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(iii) may not exclude cooperatives, nonprofit organizations, public-private partnerships, private companies, public or private utilities, public utility districts, or local governments from eligibility for such grant funds; and

(iv) shall give priority to projects based on—

(I) deployment of a broadband network to persistent poverty counties or high-poverty areas;

(II) the speeds of the proposed broadband service;

(III) the expediency with which a project can be completed; and

(IV) a demonstrated record of and plans to be in compliance with Federal labor and employment laws.

(B) AUTHORITY OF ASSISTANT SECRETARY.—The Assistant Secretary may provide additional guidance on the prioritization of subgrants awarded for the deployment of a broadband network using grant funds received under this section.

(2) CHALLENGE PROCESS.—

(A) IN GENERAL.—After submitting an initial proposal under subsection (e)(3) and before allocating grant funds received under this section for the deployment of broadband networks, an eligible entity shall ensure a transparent, evidence-based, and expeditious challenge process under which a unit of local government, nonprofit organization, or other broadband service provider can challenge a determination made by the eligible entity in the initial proposal as to whether a particular location or community anchor institution within the jurisdiction of the eligible entity is eligible for the grant funds, including whether a particular location is unserved or underserved.

(B) FINAL IDENTIFICATION; NOTIFICATION OF FUNDING ELIGIBILITY.—After resolving each challenge under subparagraph (A), and not later than 60 days before allocating grant funds received under this section for the deployment of broadband networks, an eligible entity shall provide public notice of the final classification of each unserved location, underserved location, or eligible community anchor institution within the jurisdiction of the eligible entity.

(C) CONSULTATION WITH NTIA.—An eligible entity shall notify the Assistant Secretary of any modification to the initial proposal of the eligible entity submitted under subsection (e)(3) that is necessitated by a successful challenge under subparagraph (A) of this paragraph.

(D) NTIA AUTHORITY.—The Assistant Secretary—

(i) may modify the challenge process required under subparagraph (A) as necessary; and

(ii) may reverse the determination of an eligible entity with respect to the eligibility of a particular location or community anchor institution for grant funds under this section.

(E) EXPEDITING BROADBAND DATA COLLECTION ACTIVITIES.—

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(i) DEADLINE FOR RESOLUTION OF CHALLENGE PROCESS UNDER BROADBAND DATA ACT.—Section 802(b)(5)(C)(i) of the Communications Act of 1934 (47 U.S.C. 642(b)(5)(C)(i)) is amended by striking "challenges" and inserting the following: "challenges, which shall require that the Commission resolve a challenge not later than 90 days after the date on which a final response by a provider to a challenge to the accuracy of a map or information described in subparagraph (A) is complete".

(ii) PAPERWORK REDUCTION ACT EXEMPTION EXPANSION.—Section 806(b) of the Communications Act of 1934 (47 U.S.C. 646(b)) is amended by striking "the initial rule making required under section 802(a)(1)" and inserting "any rule making or other action by the Commission required under this title".

(iii) IMPLEMENTATION.—The Commission shall implement the amendments made by this subparagraph as soon as possible after the date of enactment of this Act.

(3) NON-FEDERAL SHARE OF BROADBAND INFRASTRUCTURE DEPLOYMENT COSTS.—

(A) IN GENERAL.—

(i) MATCHING REQUIREMENT.—In allocating grant funds received under this section for deployment of broadband networks, an eligible entity shall provide, or require a subgrantee to provide, a contribution, derived from non-Federal funds (or funds from a Federal regional commission or authority), except in high-cost areas or as otherwise provided by this Act, of not less than 25 percent of project costs.

(ii) WAIVER.—Upon request by an eligible entity or a subgrantee, the Assistant Secretary may reduce or waive the required matching contribution under clause (i).

(B) SOURCE OF MATCH.—A matching contribution under subparagraph (A)—

(i) may be provided by an eligible entity, a unit of local government, a utility company, a cooperative, a nonprofit organization, a for-profit company, regional planning or governmental organization, a Federal regional commission or authority, or any combination thereof;

(ii) may include in-kind contributions; and

(iii) may include funds that were provided to an eligible entity or a subgrantee—

(I) under—

(aa) the Families First Coronavirus Response Act (Public Law 116–127; 134 Stat. 178);

(bb) the CARES Act (Public Law 116–136; 134 Stat. 281);

(cc) the Consolidated Appropriations Act, 2021 (Public Law 116–260; 134 Stat. 1182);

(dd) the American Rescue Plan Act of 2021 (Public Law 117–2; 135 Stat. 4); or

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(ee) any amendment made by an Act described in any of items (aa) through (dd); and

(II) for the purpose of deployment of broadband service, as described in the applicable provision of law described in subclause (I).

(C) DEFINITION.—For purposes of this paragraph, the term "Federal regional commission or authority" means—

(i) the Appalachian Regional Commission;

(ii) the Delta Regional Authority;

(iii) the Denali Commission; and

(iv) the Northern Border Regional Commission.

(4) DEPLOYMENT AND PROVISION OF SERVICE REQUIREMENTS.—An entity that receives a subgrant under subsection (f)(1) for the deployment of a broadband network—

(A) in providing broadband service using the network—

(i) shall provide broadband service—

(I) at a speed of not less than 100 megabits per second for downloads and 20 megabits per second for uploads;

(II) with a latency that is sufficiently low to allow reasonably foreseeable, real-time, interactive applications; and

(III) with network outages that do not exceed, on average, 48 hours over any 365-day period; and

(ii) shall provide access to broadband service to each customer served by the project that desires broadband service;

(B) shall offer not less than 1 low-cost broadband service option for eligible subscribers, as those terms are defined in paragraph (5) of this subsection;

(C) shall deploy the broadband network and begin providing broadband service to each customer that desires broadband service not later than 4 years after the date on which the entity receives the subgrant, except that an eligible entity may extend the deadline under this subparagraph if—

(i) the eligible entity has a plan for use of the grant funds;

(ii) the construction project is underway; or

(iii) extenuating circumstances require an extension of time to allow the project to be completed;

(D) for any project that involves laying fiber optic cables or conduit underground or along a roadway, shall include interspersed conduit access points at regular and short intervals;

(E) may use the subgrant to deploy broadband infrastructure in or through any area required to reach interconnection points or otherwise to ensure the technical feasibility and financial sustainability of a project providing broadband service to an unserved location, underserved location, or eligible community anchor institution;

(F) once the network has been deployed, shall provide public notice, online and through other means, of that fact to the locations and areas to which broadband service

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has been provided and share the public notice with the eligible entity that awarded the subgrant;

(G) shall carry out public awareness campaigns in service areas that are designed to highlight the value and benefits of broadband service in order to increase the adoption of broadband service by consumers; and

(H) if the entity is no longer able to provide broadband service to the locations covered by the subgrant at any time, shall sell the network capacity at a reasonable, wholesale rate on a nondiscriminatory basis to other broadband service providers or public sector entities.

(5) LOW-COST BROADBAND SERVICE OPTION.—

(A) DEFINITIONS.—In this paragraph—

(i) the term "eligible subscriber" shall have the meaning given the term by the Assistant Secretary for purposes of this paragraph; and

(ii) the term "low-cost broadband service option" shall be defined by an eligible entity for subgrantees of the eligible entity in accordance with subparagraph (B).

(B) DEFINING "LOW-COST BROADBAND SERVICE OPTION".—

(i) PROPOSAL.—An eligible entity shall submit to the Assistant Secretary for approval, in the final proposal of the eligible entity submitted under subsection (e)(4), a proposed definition of "low-cost broadband service option" that shall apply to subgrantees of the eligible entity for purposes of the requirement under paragraph (4)(B) of this subsection.

(ii) CONSULTATION.—An eligible entity shall consult with the Assistant Secretary and prospective subgrantees regarding a proposed definition of "low-cost broadband service option" before submitting the proposed definition to the Assistant Secretary under clause (i).

(iii) APPROVAL OF ASSISTANT SECRETARY.—

(I) IN GENERAL.—A proposed definition of "low-cost broadband service option" submitted by an eligible entity under clause (i) shall not take effect until the Assistant Secretary approves the final proposal of the eligible entity submitted under subsection (e)(4), including approval of the proposed definition of "low-cost broadband service option".

(II) RESUBMISSION.—If the Assistant Secretary does not approve a proposed definition of "low-cost broadband service option" submitted by an eligible entity under clause (i), the Assistant Secretary shall—

(aa) notify the eligible entity and provide the eligible entity with an opportunity to resubmit the final proposal, as provided in subsection (e)(4), with an improved definition of "low-cost broadband service option"; and

(bb) provide the eligible entity with instructions on how to cure the defects in the proposed definition.

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(iv) PUBLIC DISCLOSURE.—After the Assistant Secretary approves the final proposal of an eligible entity under subsection (e)(4), and before the Assistant Secretary disburses any funds to the eligible entity based on that approval, the Assistant Secretary shall publicly disclose the eligible entity's definition of "low-cost broadband service option".

(C) NONPERFORMANCE.—The Assistant Secretary shall develop procedures under which the Assistant Secretary or an eligible entity may—

(i) evaluate the compliance of a subgrantee with the requirement under paragraph (4)(B); and

(ii) take corrective action, including recoupment of funds from the subgrantee, for noncompliance with the requirement under paragraph (4)(B).

(D) NO REGULATION OF RATES PERMITTED.—Nothing in this title may be construed to authorize the Assistant Secretary or the National Telecommunications and Information Administration to regulate the rates charged for broadband service.

(E) GUIDANCE.—The Assistant Secretary may issue guidance to eligible entities to carry out the purposes of this paragraph.

(6) RETURN OF FUNDS.—An entity that receives a subgrant from an eligible entity under subsection (f) and fails to comply with any requirement under this subsection shall return up to the entire amount of the subgrant to the eligible entity, at the discretion of the eligible entity or the Assistant Secretary.

(i) REGULATIONS.—The Assistant Secretary may issue such regulations or other guidance, forms, instructions, and publications as may be necessary or appropriate to carry out the programs, projects, or activities authorized under this section, including to ensure that those programs, projects, or activities are completed in a timely and effective manner.

(j) REPORTING.—

(1) ELIGIBLE ENTITIES.—

(A) INITIAL REPORT.—Not later than 90 days after receiving grant funds under this section, for the sole purposes of providing transparency and providing information to inform future Federal broadband planning, an eligible entity shall submit to the Assistant Secretary a report that—

(i) describes the planned and actual use of funds;

(ii) describes the planned and actual process of subgranting;

(iii) identifies the establishment of appropriate mechanisms by the eligible entity to ensure that all subgrantees of the eligible entity comply with the eligible uses prescribed under subsection (f); and

(iv) includes any other information required by the Assistant Secretary.

(B) SEMIANNUAL REPORT.—Not later than 1 year after receiving grant funds under this section, and semiannually thereafter until the funds have been expended, an eligible entity shall submit to the Assistant Secretary a report, with respect to the 6-month period immediately preceding the report date, that—

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(i) describes how the eligible entity expended the grant funds;

(ii) describes each service provided with the grant funds;

(iii) describes the number of locations at which broadband service was made available using the grant funds, and the number of those locations at which broadband service was utilized; and

(iv) certifies that the eligible entity complied with the requirements of this section and with any additional reporting requirements prescribed by the Assistant Secretary.

(C) FINAL REPORT.—Not later than 1 year after an eligible entity has expended all grant funds received under this section, the eligible entity shall submit to the Assistant Secretary a report that—

(i) describes how the eligible entity expended the funds;

(ii) describes each service provided with the grant funds;

(iii) describes the number of locations at which broadband service was made available using the grant funds, and the number of those locations at which broadband service was utilized;

(iv) includes each report that the eligible entity received from a subgrantee under paragraph (2); and

(v) certifies that the eligible entity complied with the requirements of this section and with any additional reporting requirements prescribed by the Assistant Secretary.

(D) PROVISION TO FCC AND USDA.—Subject to section 904(b)(2) of division FF of the Consolidated Appropriations Act, 2021 (Public Law 116–260) (relating to an interagency agreement), the Assistant Secretary shall coordinate with the Commission and the Department of Agriculture, including providing the final reports received under subparagraph (C) to the Commission and the Department of Agriculture to be used when determining whether to award funds for the deployment of broadband under any program administered by those agencies.

(E) FEDERAL AGENCY REPORTING REQUIREMENT.—

(i) DEFINITIONS.—In this subparagraph, the terms "agency" and "Federal broadband support program" have the meanings given those terms in section 903 of division FF of the Consolidated Appropriations Act, 2021 (Public Law 116–260) (also known as the "ACCESS BROADBAND Act").

(ii) REQUIREMENT.—An agency that offers a Federal broadband support program shall provide data to the Assistant Secretary, in a manner and format prescribed by the Assistant Secretary, to promote coordination of efforts to track construction and use of broadband infrastructure.

(2) SUBGRANTEES.—

(A) SEMIANNUAL REPORT.—The recipient of a subgrant from an eligible entity under this section shall submit to the eligible entity a semiannual report for the duration

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of the subgrant to track the effectiveness of the use of funds provided.

(B) CONTENTS.—Each report submitted under subparagraph (A) shall—

(i) describe each type of project carried out using the subgrant and the duration of the subgrant;

(ii) in the case of a broadband infrastructure project—

(I) include a list of addresses or locations that constitute the service locations that will be served by the broadband infrastructure to be constructed;

(II) identify whether each address or location described in subclause (I) is residential, commercial, or a community anchor institution;

(III) describe the types of facilities that have been constructed and installed;

(IV) describe the peak and off-peak actual speeds of the broadband service being offered;

(V) describe the maximum advertised speed of the broadband service being offered;

(VI) describe the non-promotional prices, including any associated fees, charged for different tiers of broadband service being offered;

(VII) include any other data that would be required to comply with the data and mapping collection standards of the Commission under section 1.7004 of title 47, Code of Federal Regulations, or any successor regulation, for broadband infrastructure projects; and

(VIII) comply with any other reasonable reporting requirements determined by the eligible entity or the Assistant Secretary; and

(iii) certify that the information in the report is accurate.

(3) STANDARDIZATION AND COORDINATION.—The Assistant Secretary and the Commission shall collaborate to—

(A) standardize and coordinate reporting of locations at which broadband service was provided using grant funds received under this section in accordance with title VIII of the Communications Act of 1934 (47 U.S.C. 641 et seq.); and

(B) provide a standardized methodology to recipients of grants and subgrantees under this section for reporting the information described in subparagraph (A).

(4) INFORMATION ON BROADBAND SUBSIDIES AND LOW-INCOME PLANS.—

(A) ESTABLISHMENT OF WEBSITE.—Not later than 2 years after the date of enactment of this Act, the Assistant Secretary, in consultation with the Commission, shall establish a publicly available website that—

(i) allows a consumer to determine, based on financial information entered by the consumer, whether the consumer is eligible—

(I) to receive a Federal or State subsidy with respect to broadband service; or

(II) for a low-income plan with respect to broadband service; and

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(ii) contains information regarding how to apply for the applicable benefit described in clause (i).

(B) PROVISION OF DATA.—A Federal entity, State entity receiving Federal funds, or provider of broadband service that offers a subsidy or low-income plan, as applicable, with respect to broadband service shall provide data to the Assistant Secretary in a manner and format as established by the Assistant Secretary as necessary for the Assistant Secretary to carry out subparagraph (A).

(k) RELATION TO OTHER PUBLIC FUNDING.—Notwithstanding any other provision of law—

(1) an entity that has received amounts from the Federal Government or a State or local government for the purpose of expanding access to broadband service may receive a subgrant under subsection (f) in accordance with this section; and

(2) the receipt of a subgrant under subsection (f) by an entity described in paragraph (1) of this subsection shall not affect the eligibility of the entity to receive the amounts from the Federal Government or a State or local government described in that paragraph.

(l) SUPPLEMENT NOT SUPPLANT.—Grant funds awarded to an eligible entity under this section shall be used to supplement, and not supplant, the amounts that the eligible entity would otherwise make available for the purposes for which the grant funds may be used.

(m) SENSE OF CONGRESS REGARDING FEDERAL AGENCY COORDINATION.—It is the sense of Congress that Federal agencies responsible for supporting broadband deployment, including the Commission, the Department of Commerce, and the Department of Agriculture, to the extent possible, should align the goals, application and reporting processes, and project requirements with respect to broadband deployment supported by those agencies.

(n) JUDICIAL REVIEW.—

(1) IN GENERAL.—The United States District Court for the District of Columbia shall have exclusive jurisdiction to review a decision of the Assistant Secretary made under this section.

(2) STANDARD OF REVIEW.—In carrying out any review described in paragraph (1), the court shall affirm the decision of the Assistant Secretary unless—

(A) the decision was procured by corruption, fraud, or undue means;

(B) there was actual partiality or corruption in the Assistant Secretary; or

(C) the Assistant Secretary was guilty of—

(i) misconduct in refusing to review the administrative record; or

(ii) any other misbehavior by which the rights of any party have been prejudiced.

(o) EXEMPTION FROM CERTAIN LAWS.—Any action taken or decision made by the Assistant Secretary under this section shall be exempt from the requirements of—

(1) section 3506 of title 44, United States Code (commonly referred to as the "Paperwork Reduction Act");

(2) chapter 5 or 7 of title 5, United States Code (commonly referred to as the "Administrative Procedures Act"); and

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(3) chapter 6 of title 5, United States Code (commonly referred to as the "Regulatory Flexibility Act").

SEC. 60103. BROADBAND DATA MAPS.

(a) DEFINITION.—In this section, the term "Commission" means the Federal Communications Commission.

(b) PROVISION OF INFORMATION.—A broadband provider shall provide the Commission with any information, in the format, type, or specification requested by the Commission, necessary to augment the collection of data by the Commission under—

(1) title VIII of the Communications Act of 1934 (47 U.S.C. 641 et seq.); or

(2) the Form 477 data collection program.

(c) NOTICE OF INITIAL BROADBAND DATA COLLECTION FILING DEADLINE.—The Commission—

(1) shall provide notice to broadband providers not later than 60 days before the initial deadline for submission of data under section 802(a)(1)(A) of the Communications Act of 1934 (47 U.S.C. 642(a)(1)(A)); and

(2) notwithstanding any prior decision of the Commission to the contrary, shall not be required to provide notice not later than 6 months before the initial deadline described in paragraph (1).

(d) AVAILABILITY OF CENSUS DATA.—

(1) IN GENERAL.—Section 802(b)(1) of the Communications Act of 1934 (47 U.S.C. 802(b)(1)) is amended by adding at the end the following:

"(D) AVAILABILITY OF CENSUS DATA.—The Secretary of Commerce shall submit to the Commission, for inclusion in the Fabric, a count of the aggregate number of housing units in each census block, as collected by the Bureau of the Census.".

(2) PROVISION OF UPDATED 2020 CENSUS DATA.—Not later than 30 days after receiving a request from the Commission, the Secretary of Commerce, in implementing the amendment made by paragraph (1), shall provide the Commission with a count of the aggregate number of housing units in each census block, as collected during the 2020 decennial census of population.

(e) PUBLICATION OF BROADBAND DATA MAPS ON INTERNET.—Section 802(c)(6) of the Communications Act of 1934 (47 U.S.C. 642(c)(6)) is amended, in the matter preceding paragraph (6), by inserting ", including on a publicly available website," after "make public".

SEC. 60104. REPORT ON FUTURE OF UNIVERSAL SERVICE FUND.

(a) DEFINITIONS.—In this section—

(1) the term "Commission" means the Federal Communications Commission; and

(2) the term "universal service goals for broadband" means the statutorily mandated goals of universal service for advanced telecommunications capability under section 706 of the Telecommunications Act of 1996 (47 U.S.C. 1302).

(b) EVALUATION.—Not later than 30 days after the date of enactment of this Act, the Commission shall commence a proceeding to evaluate the implications of this Act and the amendments made by this Act on how the Commission should achieve the universal service goals for broadband.

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(c) REPORT.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Commission shall submit to Congress a report on the options of the Commission for improving its effectiveness in achieving the universal service goals for broadband in light of this Act and the amendments made by this Act, and other legislation that addresses those goals.

(2) RECOMMENDATIONS.—In the report submitted under paragraph (1), the Commission may make recommendations for Congress on further actions the Commission and Congress could take to improve the ability of the Commission to achieve the universal service goals for broadband.

(3) SCOPE OF UNIVERSAL SERVICE.—In submitting the report under paragraph (1), the Commission—

(A) may not in any way reduce the congressional mandate to achieve the universal service goals for broadband; and

(B) may provide recommendations for Congress to expand the universal service goals for broadband, if the Commission believes such an expansion is in the public interest.

SEC. 60105. BROADBAND DEPLOYMENT LOCATIONS MAP.

(a) DEFINITIONS.—In this section:

(1) BROADBAND INFRASTRUCTURE.—The term "broadband infrastructure" means any cables, fiber optics, wiring, or other permanent (integral to the structure) infrastructure, including wireless infrastructure, that—

(A) is capable of providing access to internet connections in individual locations; and

(B) is an advanced telecommunications capability, as defined in section 706(d) of the Telecommunications Act of 1996 (47 U.S.C. 1302(d)).

(2) COMMISSION.—The term "Commission" means the Federal Communications Commission.

(3) DEPLOYMENT LOCATIONS MAP.—The term "Deployment Locations Map" means the mapping tool required to be established under subsection (b).

(b) ESTABLISHMENT OF DEPLOYMENT LOCATIONS MAP.—Not later than 18 months after the date of enactment of this Act, the Commission shall, in consultation with all relevant Federal agencies, establish an online mapping tool to provide a locations overview of the overall geographic footprint of each broadband infrastructure deployment project funded by the Federal Government.

(c) REQUIREMENTS.—The Deployment Locations Map shall be—

(1) the centralized, authoritative source of information on funding made available by the Federal Government for broadband infrastructure deployment in the United States; and

(2) made publicly available on the website of the Commission.

(d) FUNCTIONS.—In establishing the Deployment Locations Map, the Commission shall ensure that the Deployment Locations Map—

(1) compiles data related to Federal funding for broadband infrastructure deployment provided by the Commission, the National Telecommunications and Information Administration,

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the Department of Agriculture, the Department of Health and Human Services, the Department of the Treasury, the Department of Housing and Urban Development, the Institute of Museum and Library Sciences, and any other Federal agency that provides such data relating to broadband infrastructure deployment funding to the Commission, including funding under—

(A) this Act;

(B) the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116–136);

(C) the Consolidated Appropriations Act, 2021 (Public Law 116–260);

(D) American Rescue Plan Act of 2021 (Public Law 117–2); or

(E) any Federal amounts appropriated or any Federal program authorized after the date of enactment of this Act to fund broadband infrastructure deployment;

(2) contains data, with respect to each broadband infrastructure deployment program, relating to—

(A) the Federal agency of jurisdiction;

(B) the program title; and

(C) the network type, including wired, terrestrial fixed, wireless, mobile, and satellite broadband infrastructure deployment;

(3) allows users to manipulate the Deployment Locations Map to identify, search, and filter broadband infrastructure deployment projects by—

(A) company name;

(B) duration timeline, including the dates of a project's beginning and ending, or anticipated beginning or ending date;

(C) total number of locations to which a project makes service available; and

(D) relevant download and upload speeds; and

(4) incorporates broadband service availability data as depicted in the Broadband Map created under section 802(c)(1) of the Communications Act of 1934 (47 U.S.C. 642(c)(1)).

(e) PERIODIC UPDATES.—

(1) IN GENERAL.—The Commission shall, in consultation with relevant Federal agencies, ensure the Deployment Locations Map is maintained and up to date on a periodic basis, but not less frequently than once every 180 days.

(2) OTHER FEDERAL AGENCIES.—Each Federal agency providing funding for broadband infrastructure deployment shall report relevant data to the Commission on a periodic basis.

(f) NO EFFECT ON PROGRAMMATIC MISSIONS.—Nothing in this section shall be construed to affect the programmatic missions of Federal agencies providing funding for broadband infrastructure development.

(g) NONDUPLICATION.—The requirements in this section shall be consistent with and avoid duplication with the provisions of section 903 of division FF of the Consolidated Appropriations Act, 2021 (Public Law 116–260).

(h) FUNDING.—Of the amounts appropriated to carry out this division under this Act, $10,000,000 shall be made available to carry out this section.

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TITLE II—TRIBAL CONNECTIVITY TECHNICAL AMENDMENTS.

SEC. 60201. TRIBAL CONNECTIVITY TECHNICAL AMENDMENTS.

Section 905 of division N of the Consolidated Appropriations Act, 2021 (Public Law 116–260) is amended—

(1) in subsection (c)—

(A) in paragraph (1)(B), by striking "during the COVID–19 pandemic";

(B) in paragraph (4)—

(i) in subparagraph (A)—

(I) in clause (i), by striking "180 days after receiving grant funds" and inserting "18 months after receiving an allocation of funds pursuant to a specific grant award"; and

(II) in clause (ii), by striking "revert to the general fund of the Treasury" and inserting "be made available to other eligible entities for the purposes provided in this subsection";

(ii) in subparagraph (B)—

(I) in clause (i), by striking "1 year after receiving grant funds" and inserting "4 years after receiving an allocation of funds pursuant to a specific grant award";

(II) by redesignating clause (iii) as clause (iv); and

(III) by inserting after clause (ii) the following:

"(iii) EXTENSIONS FOR OTHER PROJECTS.—The Assistant Secretary may, for good cause shown, extend the period under clause (i) for an eligible entity that proposes to use the grant funds for an eligible use other than construction of broadband infrastructure, based on a detailed showing by the eligible entity of the need for an extension."; and

(iii) by adding at the end the following:

"(C) MULTIPLE GRANT AWARDS.—If the Assistant Secretary awards multiple grants to an eligible entity under this subsection, the deadlines under subparagraphs (A) and (B) shall apply individually to each grant award."; and

(C) by striking paragraph (6) and inserting the following:

"(6) ADMINISTRATIVE EXPENSES OF ELIGIBLE ENTITIES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an eligible entity may use not more than 2 percent of grant funds received under this subsection for administrative purposes.

"(B) BROADBAND INFRASTRUCTURE PROJECTS.—An eligible entity that proposes to use grant funds for the construction of broadband infrastructure may use an amount of the grant funds equal to not more than 2.5 percent of the total project cost for planning, feasibility, and sustainability studies related to the project."; and

(2) in subsection (e), by adding at the end the following:

"(6) ADDITIONAL APPROPRIATIONS FOR TRIBAL BROADBAND CONNECTIVITY PROGRAM.—

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"(A) DEFINITION.—In this paragraph, the term 'initial round of funding'—

"(i) means the allocation under paragraph (2)(E) of funds appropriated under subsection (b)(1); and

"(ii) does not include any reallocation of funds under paragraph (2)(F).

"(B) NEW FUNDING.—If Congress appropriates additional funds for grants under subsection (c) after the date of enactment of this Act, the Assistant Secretary—

"(i) may use a portion of the funds to fully fund any grants under that subsection for which the Assistant Secretary received an application and which the Assistant Secretary did not fully fund during the initial round of funding; and

"(ii) shall allocate any remaining funds through subsequent funding rounds consistent with the requirements of this section, except as provided in subparagraph (C) of this paragraph.

"(C) EXCEPTIONS.—If Congress appropriates additional funds for grants under subsection (c) after the date of enactment of this Act—

"(i) the Assistant Secretary shall not be required to issue an additional notice under paragraph (1) of this subsection, but shall inform eligible entities that additional funding has been made available for grants under subsection (c) and describe the changes made to the Tribal Broadband Connectivity Program under that subsection by section 60201 of the Infrastructure Investment and Jobs Act;

"(ii) the requirement under paragraph (2)(C) of this subsection shall be applied individually to each round of funding for grants under subsection (c);

"(iii) paragraph (2)(A) of this subsection shall be applied by substituting '180-day period beginning on the date on which the Assistant Secretary informs eligible entities that additional funding has been made available for grants under subsection (c)' for '90-day period beginning on the date on which the Assistant Secretary issues the notice under paragraph (1)'; and

"(iv) notwithstanding paragraph (2)(F) of this subsection, in the case of funds appropriated under subsection (b)(1) that were not allocated during the initial round of funding, the Assistant Secretary may elect to allocate the funds during any subsequent round of funding for grants under subsection (c).".

TITLE III—DIGITAL EQUITY ACT OF 2021

SEC. 60301. SHORT TITLE.

This title may be cited as the "Digital Equity Act of 2021".

SEC. 60302. DEFINITIONS.

In this title:

(1) ADOPTION OF BROADBAND.—The term "adoption of broadband" means the process by which an individual obtains daily access to the internet—

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(A) at a speed, quality, and capacity—

(i) that is necessary for the individual to accomplish common tasks; and

(ii) such that the access qualifies as an advanced telecommunications capability;

(B) with the digital skills that are necessary for the individual to participate online; and

(C) on a—

(i) personal device; and

(ii) secure and convenient network.

(2) ADVANCED TELECOMMUNICATIONS CAPABILITY.—The term "advanced telecommunications capability" has the meaning given the term in section 706(d) of the Telecommunications Act of 1996 (47 U.S.C. 1302(d)).

(3) AGING INDIVIDUAL.—The term "aging individual" has the meaning given the term "older individual" in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002).

(4) APPROPRIATE COMMITTEES OF CONGRESS.—The term "appropriate committees of Congress" means—

(A) the Committee on Appropriations of the Senate;

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

(C) the Committee on Appropriations of the House of Representatives; and

(D) the Committee on Energy and Commerce of the House of Representatives.

(5) ASSISTANT SECRETARY.—The term "Assistant Secretary" means the Assistant Secretary of Commerce for Communications and Information.

(6) COMMUNITY ANCHOR INSTITUTION.—The term "community anchor institution" means a public school, a public or multi-family housing authority, a library, a medical or healthcare provider, a community college or other institution of higher education, a State library agency, and any other nonprofit or governmental community support organization.

(7) COVERED HOUSEHOLD.—The term "covered household" means a household, the income of which for the most recently completed year is not more than 150 percent of an amount equal to the poverty level, as determined by using criteria of poverty established by the Bureau of the Census.

(8) COVERED POPULATIONS.—The term "covered populations" means—

(A) individuals who live in covered households;

(B) aging individuals;

(C) incarcerated individuals, other than individuals who are incarcerated in a Federal correctional facility;

(D) veterans;

(E) individuals with disabilities;

(F) individuals with a language barrier, including individuals who—

(i) are English learners; and

(ii) have low levels of literacy;

(G) individuals who are members of a racial or ethnic minority group; and

(H) individuals who primarily reside in a rural area.

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(9) COVERED PROGRAMS.—The term "covered programs" means the State Digital Equity Capacity Grant Program established under section 60304 and the Digital Equity Competitive Grant Program established under section 60305.

(10) DIGITAL EQUITY.—The term "digital equity" means the condition in which individuals and communities have the information technology capacity that is needed for full participation in the society and economy of the United States.

(11) DIGITAL INCLUSION.—The term "digital inclusion"—

(A) means the activities that are necessary to ensure that all individuals in the United States have access to, and the use of, affordable information and communication technologies, such as—

(i) reliable fixed and wireless broadband internet service;

(ii) internet-enabled devices that meet the needs of the user; and

(iii) applications and online content designed to enable and encourage self-sufficiency, participation, and collaboration; and

(B) includes—

(i) obtaining access to digital literacy training;

(ii) the provision of quality technical support; and

(iii) obtaining basic awareness of measures to ensure online privacy and cybersecurity.

(12) DIGITAL LITERACY.—The term "digital literacy" means the skills associated with using technology to enable users to find, evaluate, organize, create, and communicate information.

(13) DISABILITY.—The term "disability" has the meaning given the term in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

(14) ELIGIBLE STATE.—The term "eligible State" means—

(A) with respect to planning grants made available under section 60304(c)(3), a State with respect to which the Assistant Secretary has approved an application submitted to the Assistant Secretary under section 60304(c)(3)(C); and

(B) with respect to capacity grants awarded under section 60304(d), a State with respect to which the Assistant Secretary has approved an application submitted to the Assistant Secretary under section 60304(d)(2), including approval of the State Digital Equity Plan developed by the State under section 60304(c).

(15) GENDER IDENTITY.—The term "gender identity" has the meaning given the term in section 249(c) of title 18, United States Code.

(16) INDIAN TRIBE.—The term "Indian Tribe" has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304(e)).

(17) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education"—

(A) has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); and

(B) includes a postsecondary vocational institution.

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(18) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given the term in section 8101(30) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(30)).

(19) POSTSECONDARY VOCATIONAL INSTITUTION.—The term "postsecondary vocational institution" has the meaning given the term in section 102(c) of the Higher Education Act of 1965 (20 U.S.C. 1002(c)).

(20) RURAL AREA.—The term "rural area" has the meaning given the term in section 601(b)(3) of the Rural Electrification Act of 1936 (7 U.S.C. 950bb(b)(3)).

(21) STATE.—The term "State" means—

(A) any State of the United States;

(B) the District of Columbia; and

(C) the Commonwealth of Puerto Rico.

(22) VETERAN.—The term "veteran" has the meaning given the term in section 101 of title 38, United States Code.

(23) WORKFORCE DEVELOPMENT PROGRAM.—The term "workforce development program" has the meaning given the term in section 3(66) of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102(66)).

SEC. 60303. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) a broadband connection and digital literacy are increasingly critical to how individuals—

(A) participate in the society, economy, and civic institutions of the United States; and

(B) access health care and essential services, obtain education, and build careers;

(2) digital exclusion—

(A) carries a high societal and economic cost;

(B) materially harms the opportunity of an individual with respect to the economic success, educational achievement, positive health outcomes, social inclusion, and civic engagement of that individual; and

(C) exacerbates existing wealth and income gaps, especially those experienced by covered populations;

(3) achieving digital equity for all people of the United States requires additional and sustained investment and research efforts;

(4) the Federal Government, as well as State, tribal, territorial, and local governments, have made social, legal, and economic obligations that necessarily extend to how the citizens and residents of those governments access and use the internet; and

(5) achieving digital equity is a matter of social and economic justice and is worth pursuing.

SEC. 60304. STATE DIGITAL EQUITY CAPACITY GRANT PROGRAM.

(a) ESTABLISHMENT; PURPOSE.—

(1) IN GENERAL.—The Assistant Secretary shall establish in the Department of Commerce the State Digital Equity Capacity Grant Program (referred to in this section as the "Program")—

(A) the purpose of which is to promote the achievement of digital equity, support digital inclusion activities, and

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build capacity for efforts by States relating to the adoption of broadband by residents of those States;

(B) through which the Assistant Secretary shall make grants to States in accordance with the requirements of this section; and

(C) which shall ensure that States have the capacity to promote the achievement of digital equity and support digital inclusion activities.

(2) CONSULTATION WITH OTHER FEDERAL AGENCIES; NO CONFLICT.—In establishing the Program under paragraph (1), the Assistant Secretary shall—

(A) consult with—

(i) the Secretary of Agriculture;

(ii) the Secretary of Housing and Urban Development;

(iii) the Secretary of Education;

(iv) the Secretary of Labor;

(v) the Secretary of Health and Human Services;

(vi) the Secretary of Veterans Affairs;

(vii) the Secretary of the Interior;

(viii) the Federal Communications Commission;

(ix) the Federal Trade Commission;

(x) the Director of the Institute of Museum and Library Services;

(xi) the Administrator of the Small Business Administration;

(xii) the Federal Co-Chair of the Appalachian Regional Commission; and

(xiii) the head of any other agency that the Assistant Secretary determines to be appropriate; and

(B) ensure that the Program complements and enhances, and does not conflict with, other Federal broadband initiatives and programs.

(b) ADMINISTERING ENTITY.—

(1) SELECTION; FUNCTION.—The governor (or equivalent official) of a State that wishes to be awarded a grant under this section shall, from among entities that are eligible under paragraph (2), select an administering entity for that State, which shall—

(A) serve as the recipient of, and administering agent for, any grant awarded to the State under this section;

(B) develop, implement, and oversee the State Digital Equity Plan for the State described in subsection (c);

(C) make subgrants to any entity described in subsection (c)(1)(D) that is located in the State in support of—

(i) the State Digital Equity Plan for the State; and

(ii) digital inclusion activities in the State generally; and

(D) serve as—

(i) an advocate for digital equity policy and digital inclusion activities; and

(ii) a repository of best practice materials regarding the policies and activities described in clause (i).

(2) ELIGIBLE ENTITIES.—Any of the following entities may serve as the administering entity for a State for the purposes

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of this section if the entity has demonstrated a capacity to administer the Program on a statewide level:

(A) The State, a political subdivision, agency, or instrumentality of the State, an Indian Tribe located in the State, an Alaska Native entity located in the State, or a Native Hawaiian organization located in the State.

(B) A foundation, corporation, institution, association, or coalition that is—

(i) a not-for-profit entity;

(ii) providing services in the State; and

(iii) not a school.

(C) A community anchor institution, other than a school, that is located in the State.

(D) A local educational agency that is located in the State.

(E) An entity located in the State that carries out a workforce development program.

(F) An agency of the State that is responsible for administering or supervising adult education and literacy activities in the State.

(G) A public or multi-family housing authority that is located in the State.

(H) A partnership between any of the entities described in subparagraphs (A) through (G).

(c) STATE DIGITAL EQUITY PLAN.—

(1) DEVELOPMENT; CONTENTS.—A State that wishes to be awarded a grant under subsection (d) shall develop a State Digital Equity Plan for the State, which shall include—

(A) the identification of the barriers to digital equity faced by covered populations in the State;

(B) measurable objectives for documenting and promoting, among each group described in subparagraphs (A) through (H) of section 60302(8) located in that State—

(i) the availability of, and affordability of access to, fixed and wireless broadband technology;

(ii) the online accessibility and inclusivity of public resources and services;

(iii) digital literacy;

(iv) awareness of, and the use of, measures to secure the online privacy of, and cybersecurity with respect to, an individual; and

(v) the availability and affordability of consumer devices and technical support for those devices;

(C) an assessment of how the objectives described in subparagraph (B) will impact and interact with the State's—

(i) economic and workforce development goals, plans, and outcomes;

(ii) educational outcomes;

(iii) health outcomes;

(iv) civic and social engagement; and

(v) delivery of other essential services;

(D) in order to achieve the objectives described in subparagraph (B), a description of how the State plans to collaborate with key stakeholders in the State, which may include—

(i) community anchor institutions;

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(ii) county and municipal governments;
(iii) local educational agencies;
(iv) where applicable, Indian Tribes, Alaska Native entities, or Native Hawaiian organizations;
(v) nonprofit organizations;
(vi) organizations that represent—
(I) individuals with disabilities, including organizations that represent children with disabilities;
(II) aging individuals;
(III) individuals with language barriers, including—
(aa) individuals who are English learners; and
(bb) individuals who have low levels of literacy;
(IV) veterans; and
(V) individuals in that State who are incarcerated in facilities other than Federal correctional facilities;
(vii) civil rights organizations;
(viii) entities that carry out workforce development programs;
(ix) agencies of the State that are responsible for administering or supervising adult education and literacy activities in the State;
(x) public housing authorities in the State; and
(xi) a partnership between any of the entities described in clauses (i) through (x); and
(E) a list of organizations with which the administering entity for the State collaborated in developing and implementing the Plan.
(2) PUBLIC AVAILABILITY.—
(A) IN GENERAL.—The administering entity for a State shall make the State Digital Equity Plan of the State available for public comment for a period of not less than 30 days before the date on which the State submits an application to the Assistant Secretary under subsection (d)(2).
(B) CONSIDERATION OF COMMENTS RECEIVED.—The administering entity for a State shall, with respect to an application submitted to the Assistant Secretary under subsection (d)(2)—
(i) before submitting the application—
(I) consider all comments received during the comment period described in subparagraph (A) with respect to the application (referred to in this subparagraph as the "comment period"); and
(II) make any changes to the plan that the administering entity determines to be worthwhile; and
(ii) when submitting the application—
(I) describe any changes pursued by the administering entity in response to comments received during the comment period; and
(II) include a written response to each comment received during the comment period.

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(3) PLANNING GRANTS.—

(A) IN GENERAL.—Beginning in the first fiscal year that begins after the date of enactment of this Act, the Assistant Secretary shall, in accordance with the requirements of this paragraph, award planning grants to States for the purpose of developing the State Digital Equity Plans of those States under this subsection.

(B) ELIGIBILITY.—In order to be awarded a planning grant under this paragraph, a State—

(i) shall submit to the Assistant Secretary an application under subparagraph (C); and

(ii) may not have been awarded, at any time, a planning grant under this paragraph.

(C) APPLICATION.—A State that wishes to be awarded a planning grant under this paragraph shall, not later than 60 days after the date on which the notice of funding availability with respect to the grant is released, submit to the Assistant Secretary an application, in a format to be determined by the Assistant Secretary, that contains the following materials:

(i) A description of the entity selected to serve as the administering entity for the State, as described in subsection (b).

(ii) A certification from the State that, not later than 1 year after the date on which the Assistant Secretary awards the planning grant to the State, the administering entity for that State shall develop a State Digital Equity Plan under this subsection, which—

(I) the administering entity shall submit to the Assistant Secretary; and

(II) shall comply with the requirements of this subsection, including the requirement under paragraph (2)(B).

(iii) The assurances required under subsection (e).

(D) AWARDS.—

(i) AMOUNT OF GRANT.—A planning grant awarded to an eligible State under this paragraph shall be determined according to the formula under subsection (d)(3)(A)(i).

(ii) DURATION.—

(I) IN GENERAL.—Except as provided in subclause (II), with respect to a planning grant awarded to an eligible State under this paragraph, the State shall expend the grant funds during the 1-year period beginning on the date on which the State is awarded the grant funds.

(II) EXCEPTION.—The Assistant Secretary may grant an extension of not longer than 180 days with respect to the requirement under subclause (I).

(iii) CHALLENGE MECHANISM.—The Assistant Secretary shall ensure that any eligible State to which a planning grant is awarded under this paragraph may appeal or otherwise challenge in a timely fashion the amount of the grant awarded to the State, as determined under clause (i).

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(E) USE OF FUNDS.—An eligible State to which a planning grant is awarded under this paragraph shall, through the administering entity for that State, use the grant funds only for the following purposes:

(i) To develop the State Digital Equity Plan of the State under this subsection.

(ii)(I) Subject to subclause (II), to make subgrants to any of the entities described in paragraph (1)(D) to assist in the development of the State Digital Equity Plan of the State under this subsection.

(II) If the administering entity for a State makes a subgrant described in subclause (I), the administering entity shall, with respect to the subgrant, provide to the State the assurances required under subsection (e).

(d) STATE CAPACITY GRANTS.—

(1) IN GENERAL.—Beginning not later than 2 years after the date on which the Assistant Secretary begins awarding planning grants under subsection (c)(3), the Assistant Secretary shall each year award grants to eligible States to support—

(A) the implementation of the State Digital Equity Plans of those States; and

(B) digital inclusion activities in those States.

(2) APPLICATION.—A State that wishes to be awarded a grant under this subsection shall, not later than 60 days after the date on which the notice of funding availability with respect to the grant is released, submit to the Assistant Secretary an application, in a format to be determined by the Assistant Secretary, that contains the following materials:

(A) A description of the entity selected to serve as the administering entity for the State, as described in subsection (b).

(B) The State Digital Equity Plan of that State, as described in subsection (c).

(C) A certification that the State, acting through the administering entity for the State, shall—

(i) implement the State Digital Equity Plan of the State; and

(ii) make grants in a manner that is consistent with the aims of the Plan described in clause (i).

(D) The assurances required under subsection (e).

(E) In the case of a State to which the Assistant Secretary has previously awarded a grant under this subsection, any amendments to the State Digital Equity Plan of that State, as compared with the State Digital Equity Plan of the State previously submitted.

(3) AWARDS.—

(A) AMOUNT OF GRANT.—

(i) FORMULA.—Subject to clauses (ii), (iii), and (iv), the Assistant Secretary shall calculate the amount of a grant awarded to an eligible State under this subsection in accordance with the following criteria, using the best available data for all States for the fiscal year in which the grant is awarded:

(I) 50 percent of the total grant amount shall be based on the population of the eligible State

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in proportion to the total population of all eligible States.

(II) 25 percent of the total grant amount shall be based on the number of individuals in the eligible State who are members of covered populations in proportion to the total number of individuals in all eligible States who are members of covered populations.

(III) 25 percent of the total grant amount shall be based on the comparative lack of availability and adoption of broadband in the eligible State in proportion to the lack of availability and adoption of broadband of all eligible States, which shall be determined according to data collected from—

(aa) the annual inquiry of the Federal Communications Commission conducted under section 706(b) of the Telecommunications Act of 1996 (47 U.S.C. 1302(b));

(bb) the American Community Survey or, if necessary, other data collected by the Bureau of the Census;

(cc) the NTIA Internet Use Survey, which is administered as the Computer and Internet Use Supplement to the Current Population Survey of the Bureau of the Census; and

(dd) any other source that the Assistant Secretary, after appropriate notice and opportunity for public comment, determines to be appropriate.

(ii) MINIMUM AWARD.—The amount of a grant awarded to an eligible State under this subsection in a fiscal year shall be not less than 0.5 percent of the total amount made available to award grants to eligible States for that fiscal year.

(iii) ADDITIONAL AMOUNTS.—If, after awarding planning grants to States under subsection (c)(3) and capacity grants to eligible States under this subsection in a fiscal year, there are amounts remaining to carry out this section, the Assistant Secretary shall distribute those amounts—

(I) to eligible States to which the Assistant Secretary has awarded grants under this subsection for that fiscal year; and

(II) in accordance with the formula described in clause (i).

(iv) DATA UNAVAILABLE.—If, in a fiscal year, the Commonwealth of Puerto Rico (referred to in this clause as "Puerto Rico") is an eligible State and specific data for Puerto Rico is unavailable for a factor described in subclause (I), (II), or (II) of clause (i), the Assistant Secretary shall use the median data point with respect to that factor among all eligible States and assign it to Puerto Rico for the purposes of making any calculation under that clause for that fiscal year.

(B) DURATION.—With respect to a grant awarded to an eligible State under this subsection, the eligible State shall expend the grant funds during the 5-year period

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beginning on the date on which the eligible State is awarded the grant funds.

(C) CHALLENGE MECHANISM.—The Assistant Secretary shall ensure that any eligible State to which a grant is awarded under this subsection may appeal or otherwise challenge in a timely fashion the amount of the grant awarded to the State, as determined under subparagraph (A).

(D) USE OF FUNDS.—The administering entity for an eligible State to which a grant is awarded under this subsection shall use the grant amounts for the following purposes:

(i)(I) Subject to subclause (II), to update or maintain the State Digital Equity Plan of the State.

(II) An administering entity for an eligible State to which a grant is awarded under this subsection may use not more than 20 percent of the amount of the grant for the purpose described in subclause (I).

(ii) To implement the State Digital Equity Plan of the State.

(iii)(I) Subject to subclause (II), to award a grant to any entity that is described in section 60305(b) and is located in the eligible State in order to—

(aa) assist in the implementation of the State Digital Equity Plan of the State;

(bb) pursue digital inclusion activities in the State consistent with the State Digital Equity Plan of the State; and

(cc) report to the State regarding the digital inclusion activities of the entity.

(II) Before an administering entity for an eligible State may award a grant under subclause (I), the administering entity shall require the entity to which the grant is awarded to certify that—

(aa) the entity shall carry out the activities required under items (aa), (bb), and (cc) of that subclause;

(bb) the receipt of the grant shall not result in unjust enrichment of the entity; and

(cc) the entity shall cooperate with any evaluation—

(AA) of any program that relates to a grant awarded to the entity; and

(BB) that is carried out by or for the administering entity, the Assistant Secretary, or another Federal official.

(iv)(I) Subject to subclause (II), to evaluate the efficacy of the efforts funded by grants made under clause (iii).

(II) An administering entity for an eligible State to which a grant is awarded under this subsection may use not more than 5 percent of the amount of the grant for a purpose described in subclause (I).

(v)(I) Subject to subclause (II), for the administrative costs incurred in carrying out the activities described in clauses (i) through (iv).

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(II) An administering entity for an eligible State to which a grant is awarded under this subsection may use not more than 3 percent of the amount of the grant for a purpose described in subclause (I).

(e) ASSURANCES.—When applying for a grant under this section, a State shall include in the application for that grant assurances that—

(1) if an entity described in section 60305(b) is awarded grant funds under this section (referred to in this subsection as a "covered recipient"), provide that—

(A) the covered recipient shall use the grant funds in accordance with any applicable statute, regulation, and application procedure;

(B) the administering entity for that State shall adopt and use proper methods of administering any grant that the covered recipient is awarded, including by—

(i) enforcing any obligation imposed under law on any agency, institution, organization, or other entity that is responsible for carrying out the program to which the grant relates;

(ii) correcting any deficiency in the operation of a program to which the grant relates, as identified through an audit or another monitoring or evaluation procedure; and

(iii) adopting written procedures for the receipt and resolution of complaints alleging a violation of law with respect to a program to which the grant relates; and

(C) the administering entity for that State shall cooperate in carrying out any evaluation—

(i) of any program that relates to a grant awarded to the covered recipient; and

(ii) that is carried out by or for the Assistant Secretary or another Federal official;

(2) the administering entity for that State shall—

(A) use fiscal control and fund accounting procedures that ensure the proper disbursement of, and accounting for, any Federal funds that the State is awarded under this section;

(B) submit to the Assistant Secretary any reports that may be necessary to enable the Assistant Secretary to perform the duties of the Assistant Secretary under this section;

(C) maintain any records and provide any information to the Assistant Secretary, including those records, that the Assistant Secretary determines is necessary to enable the Assistant Secretary to perform the duties of the Assistant Secretary under this section; and

(D) with respect to any significant proposed change or amendment to the State Digital Equity Plan for the State, make the change or amendment available for public comment in accordance with subsection (c)(2); and

(3) the State, before submitting to the Assistant Secretary the State Digital Equity Plan of the State, has complied with the requirements of subsection (c)(2).

(f) TERMINATION OF GRANT.—

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(1) IN GENERAL.—The Assistant Secretary shall terminate a grant awarded to an eligible State under this section if, after notice to the State and opportunity for a hearing, the Assistant Secretary—

(A) presents to the State a rationale and supporting information that clearly demonstrates that—

(i) the grant funds are not contributing to the development or execution of the State Digital Equity Plan of the State, as applicable; and

(ii) the State is not upholding assurances made by the State to the Assistant Secretary under subsection (e); and

(B) determines that the grant is no longer necessary to achieve the original purpose for which Assistant Secretary awarded the grant.

(2) REDISTRIBUTION.—If the Assistant Secretary, in a fiscal year, terminates a grant under paragraph (1), the Assistant Secretary shall redistribute the unspent grant amounts—

(A) to eligible States to which the Assistant Secretary has awarded grants under subsection (d) for that fiscal year; and

(B) in accordance with the formula described in subsection (d)(3)(A)(i).

(g) REPORTING AND INFORMATION REQUIREMENTS; INTERNET DISCLOSURE.—The Assistant Secretary—

(1) shall—

(A) require any entity to which a grant, including a subgrant, is awarded under this section to publicly report, for each year during the period described in subsection (c)(3)(D)(ii) or (d)(3)(B), as applicable, with respect to the grant, and in a format specified by the Assistant Secretary, on—

(i) the use of that grant by the entity;

(ii) the progress of the entity towards fulfilling the objectives for which the grant was awarded; and

(iii) the implementation of the State Digital Equity Plan of the State;

(B) establish appropriate mechanisms to ensure that each eligible State to which a grant is awarded under this section—

(i) uses the grant amounts in an appropriate manner; and

(ii) complies with all terms with respect to the use of the grant amounts; and

(C) create and maintain a fully searchable database, which shall be accessible on the internet at no cost to the public, that contains, at a minimum—

(i) the application of each State that has applied for a grant under this section;

(ii) the status of each application described in clause (i);

(iii) each report submitted by an entity under subparagraph (A);

(iv) a record of public comments made regarding the State Digital Equity Plan of a State, as well as any written responses to or actions taken as a result of those comments; and

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(v) any other information that is sufficient to allow the public to understand and monitor grants awarded under this section; and

(2) may establish additional reporting and information requirements for any recipient of a grant under this section.

(h) SUPPLEMENT NOT SUPPLANT.—A grant or subgrant awarded under this section shall supplement, not supplant, other Federal or State funds that have been made available to carry out activities described in this section.

(i) SET ASIDES.—From amounts made available in a fiscal year to carry out the Program, the Assistant Secretary shall reserve—

(1) not more than 5 percent for the implementation and administration of the Program, which shall include—

(A) providing technical support and assistance, including ensuring consistency in data reporting;

(B) providing assistance to—

(i) States, or administering entities for States, to prepare the applications of those States; and

(ii) administering entities with respect to grants awarded under this section; and

(C) developing the report required under section 60306(a);

(2) not less than 5 percent to award grants to, or enter into contracts or cooperative agreements with, Indian Tribes, Alaska Native entities, and Native Hawaiian organizations to allow those tribes, entities, and organizations to carry out the activities described in this section; and

(3) not less than 1 percent to award grants to, or enter into contracts or cooperative agreements with, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States that is not a State to enable those entities to carry out the activities described in this section.

(j) RULES.—The Assistant Secretary may prescribe such rules as may be necessary to carry out this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) $60,000,000 for the award of grants under subsection (c)(3), which shall remain available until expended;

(2) for the award of grants under subsection (d)—

(A) $240,000,000 for fiscal year 2022; and

(B) $300,000,000 for each of fiscal years 2023 through 2026; and

(3) such sums as may be necessary to carry out this section for each fiscal year after the end of the 5-fiscal year period described in paragraph (2).

SEC. 60305. DIGITAL EQUITY COMPETITIVE GRANT PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 30 days after the date on which the Assistant Secretary begins awarding grants under section 60304(d), and not before that date, the Assistant Secretary shall establish in the Department of Commerce the Digital Equity Competitive Grant Program (referred to in this section as the "Program"), the purpose of which is to award grants to support efforts to achieve digital equity, promote

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digital inclusion activities, and spur greater adoption of broadband among covered populations.

(2) CONSULTATION; NO CONFLICT.—In establishing the Program under paragraph (1), the Assistant Secretary—

(A) may consult a State with respect to—

(i) the identification of groups described in subparagraphs (A) through (H) of section 60302(8) located in that State; and

(ii) the allocation of grant funds within that State for projects in or affecting the State; and

(B) shall—

(i) consult with—

(I) the Secretary of Agriculture;

(II) the Secretary of Housing and Urban Development;

(III) the Secretary of Education;

(IV) the Secretary of Labor;

(V) the Secretary of Health and Human Services;

(VI) the Secretary of Veterans Affairs;

(VII) the Secretary of the Interior;

(VIII) the Federal Communications Commission;

(IX) the Federal Trade Commission;

(X) the Director of the Institute of Museum and Library Services;

(XI) the Administrator of the Small Business Administration;

(XII) the Federal Co-Chair of the Appalachian Regional Commission; and

(XIII) the head of any other agency that the Assistant Secretary determines to be appropriate; and

(ii) ensure that the Program complements and enhances, and does not conflict with, other Federal broadband initiatives and programs.

(b) ELIGIBILITY.—The Assistant Secretary may award a grant under the Program to any of the following entities if the entity is not serving, and has not served, as the administering entity for a State under section 60304(b):

(1) A political subdivision, agency, or instrumentality of a State, including an agency of a State that is responsible for administering or supervising adult education and literacy activities, or for providing public housing, in the State.

(2) An Indian Tribe, an Alaska Native entity, or a Native Hawaiian organization.

(3) A foundation, corporation, institution, or association that is—

(A) a not-for-profit entity; and

(B) not a school.

(4) A community anchor institution.

(5) A local educational agency.

(6) An entity that carries out a workforce development program.

(7) A partnership between any of the entities described in paragraphs (1) through (6).

(8) A partnership between—

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(A) an entity described in any of paragraphs (1) through (6); and

(B) an entity that—

(i) the Assistant Secretary, by rule, determines to be in the public interest; and

(ii) is not a school.

(c) APPLICATION.—An entity that wishes to be awarded a grant under the Program shall submit to the Assistant Secretary an application—

(1) at such time, in such form, and containing such information as the Assistant Secretary may require; and

(2) that—

(A) provides a detailed explanation of how the entity will use any grant amounts awarded under the Program to carry out the purposes of the Program in an efficient and expeditious manner;

(B) identifies the period in which the applicant will expend the grant funds awarded under the Program;

(C) includes—

(i) a justification for the amount of the grant that the applicant is requesting; and

(ii) for each fiscal year in which the applicant will expend the grant funds, a budget for the activities that the grant funds will support;

(D) demonstrates to the satisfaction of the Assistant Secretary that the entity—

(i) is capable of carrying out—

(I) the project or function to which the application relates; and

(II) the activities described in subsection (h)—

(aa) in a competent manner; and

(bb) in compliance with all applicable Federal, State, and local laws; and

(ii) if the applicant is an entity described in subsection (b)(1), shall appropriate or otherwise unconditionally obligate from non-Federal sources funds that are necessary to meet the requirements of subsection (e);

(E) discloses to the Assistant Secretary the source and amount of other Federal, State, or outside funding sources from which the entity receives, or has applied for, funding for activities or projects to which the application relates; and

(F) provides—

(i) the assurances that are required under subsection (f); and

(ii) an assurance that the entity shall follow such additional procedures as the Assistant Secretary may require to ensure that grant funds are used and accounted for in an appropriate manner.

(d) AWARD OF GRANTS.—

(1) FACTORS CONSIDERED IN AWARD OF GRANTS.—In deciding whether to award a grant under the Program, the Assistant Secretary shall, to the extent practicable, consider—

(A) whether an application shall, if approved—

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(i) increase internet access and the adoption of broadband among covered populations to be served by the applicant; and

(ii) not result in unjust enrichment;

(B) the comparative geographic diversity of the application in relation to other eligible applications; and

(C) the extent to which an application may duplicate or conflict with another program.

(2) USE OF FUNDS.—

(A) IN GENERAL.—In addition to the activities required under subparagraph (B), an entity to which the Assistant Secretary awards a grant under the Program shall use the grant amounts to support not less than 1 of the following activities:

(i) To develop and implement digital inclusion activities that benefit covered populations.

(ii) To facilitate the adoption of broadband by covered populations in order to provide educational and employment opportunities to those populations.

(iii) To implement, consistent with the purposes of this title—

(I) training programs for covered populations that cover basic, advanced, and applied skills; or

(II) other workforce development programs.

(iv) To make available equipment, instrumentation, networking capability, hardware and software, or digital network technology for broadband services to covered populations at low or no cost.

(v) To construct, upgrade, expend, or operate new or existing public access computing centers for covered populations through community anchor institutions.

(vi) To undertake any other project and activity that the Assistant Secretary finds to be consistent with the purposes for which the Program is established.

(B) EVALUATION.—

(i) IN GENERAL.—An entity to which the Assistant Secretary awards a grant under the Program shall use not more than 10 percent of the grant amounts to measure and evaluate the activities supported with the grant amounts.

(ii) SUBMISSION TO ASSISTANT SECRETARY.—An entity to which the Assistant Secretary awards a grant under the Program shall submit to the Assistant Secretary each measurement and evaluation performed under clause (i)—

(I) in a manner specified by the Assistant Secretary;

(II) not later than 15 months after the date on which the entity is awarded the grant amounts; and

(III) annually after the submission described in subclause (II) for any year in which the entity expends grant amounts.

(C) ADMINISTRATIVE COSTS.—An entity to which the Assistant Secretary awards a grant under the Program may use not more than 10 percent of the amount of the

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grant for administrative costs in carrying out any of the activities described in subparagraph (A).

(D) TIME LIMITATIONS.—With respect to a grant awarded to an entity under the Program, the entity—

(i) except as provided in clause (ii), shall expend the grant amounts during the 4-year period beginning on the date on which the entity is awarded the grant amounts; and

(ii) during the 1-year period beginning on the date that is 4 years after the date on which the entity is awarded the grant amounts, may continue to measure and evaluate the activities supported with the grant amounts, as required under subparagraph (B).

(e) FEDERAL SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Federal share of any project for which the Assistant Secretary awards a grant under the Program may not exceed 90 percent.

(2) EXCEPTION.—The Assistant Secretary may grant a waiver with respect to the limitation on the Federal share of a project described in paragraph (1) if—

(A) the applicant with respect to the project petitions the Assistant Secretary for the waiver; and

(B) the Assistant Secretary determines that the petition described in subparagraph (A) demonstrates financial need.

(f) ASSURANCES.—When applying for a grant under this section, an entity shall include in the application for that grant assurances that the entity shall—

(1) use any grant funds that the entity is awarded—

(A) in accordance with any applicable statute, regulation, and application procedure; and

(B) to the extent required under applicable law;

(2) adopt and use proper methods of administering any grant that the entity is awarded, including by—

(A) enforcing any obligation imposed under law on any agency, institution, organization, or other entity that is responsible for carrying out a program to which the grant relates;

(B) correcting any deficiency in the operation of a program to which the grant relates, as identified through an audit or another monitoring or evaluation procedure; and

(C) adopting written procedures for the receipt and resolution of complaints alleging a violation of law with respect to a program to which the grant relates;

(3) cooperate with respect to any evaluation—

(A) of any program that relates to a grant awarded to the entity; and

(B) that is carried out by or for the Assistant Secretary or another Federal official;

(4) use fiscal control and fund accounting procedures that ensure the proper disbursement of, and accounting for, any Federal funds that the entity is awarded under the Program;

(5) submit to the Assistant Secretary any reports that may be necessary to enable the Assistant Secretary to perform the duties of the Assistant Secretary under the Program; and

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(6) maintain any records and provide any information to the Assistant Secretary, including those records, that the Assistant Secretary determines is necessary to enable the Assistant Secretary to perform the duties of the Assistant Secretary under the Program.

(g) DEOBLIGATION OR TERMINATION OF GRANT.—In addition to other authority under applicable law, the Assistant Secretary may—

(1) deobligate or terminate a grant awarded to an entity under this section if, after notice to the entity and opportunity for a hearing, the Assistant Secretary—

(A) presents to the entity a rationale and supporting information that clearly demonstrates that—

(i) the grant funds are not being used in a manner that is consistent with the application with respect to the grant submitted by the entity under subsection (c); and

(ii) the entity is not upholding assurances made by the entity to the Assistant Secretary under subsection (f); and

(B) determines that the grant is no longer necessary to achieve the original purpose for which Assistant Secretary awarded the grant; and

(2) with respect to any grant funds that the Assistant Secretary deobligates or terminates under paragraph (1), competitively award the grant funds to another applicant, consistent with the requirements of this section.

(h) REPORTING AND INFORMATION REQUIREMENTS; INTERNET DISCLOSURE.—The Assistant Secretary—

(1) shall—

(A) require any entity to which the Assistant Secretary awards a grant under the Program to, for each year during the period described in subsection (d)(2)(D) with respect to the grant, submit to the Assistant Secretary a report, in a format specified by the Assistant Secretary, regarding—

(i) the amount of the grant;

(ii) the use by the entity of the grant amounts; and

(iii) the progress of the entity towards fulfilling the objectives for which the grant was awarded;

(B) establish mechanisms to ensure appropriate use of, and compliance with respect to all terms regarding, grant funds awarded under the Program;

(C) create and maintain a fully searchable database, which shall be accessible on the internet at no cost to the public, that contains, at a minimum—

(i) a list of each entity that has applied for a grant under the Program;

(ii) a description of each application described in clause (i), including the proposed purpose of each grant described in that clause;

(iii) the status of each application described in clause (i), including whether the Assistant Secretary has awarded a grant with respect to the application and, if so, the amount of the grant;

(iv) each report submitted by an entity under subparagraph (A); and

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(v) any other information that is sufficient to allow the public to understand and monitor grants awarded under the Program; and

(D) ensure that any entity with respect to which an award is deobligated or terminated under subsection (g) may, in a timely manner, appeal or otherwise challenge that deobligation or termination, as applicable; and

(2) may establish additional reporting and information requirements for any recipient of a grant under the Program.

(i) SUPPLEMENT NOT SUPPLANT.—A grant awarded to an entity under the Program shall supplement, not supplant, other Federal or State funds that have been made available to the entity to carry out activities described in this section.

(j) SET ASIDES.—From amounts made available in a fiscal year to carry out the Program, the Assistant Secretary shall reserve—

(1) 5 percent for the implementation and administration of the Program, which shall include—

(A) providing technical support and assistance, including ensuring consistency in data reporting;

(B) providing assistance to entities to prepare the applications of those entities with respect to grants awarded under this section;

(C) developing the report required under section 60306(a); and

(D) conducting outreach to entities that may be eligible to be awarded a grant under the Program regarding opportunities to apply for such a grant;

(2) 5 percent to award grants to, or enter into contracts or cooperative agreements with, Indian Tribes, Alaska Native entities, and Native Hawaiian organizations to allow those tribes, entities, and organizations to carry out the activities described in this section; and

(3) 1 percent to award grants to, or enter into contracts or cooperative agreements with, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States that is not a State to enable those entities to carry out the activities described in this section.

(k) RULES.—The Assistant Secretary may prescribe such rules as may be necessary to carry out this section.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $250,000,000 for each of the first 5 fiscal years in which funds are made available to carry out this section; and

(2) such sums as may be necessary for each fiscal year after the end of the 5-fiscal year period described in paragraph (1).

SEC. 60306. POLICY RESEARCH, DATA COLLECTION, ANALYSIS AND MODELING, EVALUATION, AND DISSEMINATION.

(a) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Not later than 1 year after the date on which the Assistant Secretary begins awarding grants under section 60304(d)(1), and annually thereafter, the Assistant Secretary shall—

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(A) submit to the appropriate committees of Congress a report that documents, for the year covered by the report—

(i) the findings of each evaluation conducted under subparagraph (B);

(ii) a list of each grant awarded under each covered program, which shall include—

(I) the amount of each such grant;

(II) the recipient of each such grant; and

(III) the purpose for which each such grant was awarded;

(iii) any deobligation, termination, or modification of a grant awarded under the covered programs, which shall include a description of the subsequent usage of any funds to which such an action applies; and

(iv) each challenge made by an applicant for, or a recipient of, a grant under the covered programs and the outcome of each such challenge; and

(B) conduct evaluations of the activities carried out under the covered programs, which shall include an evaluation of—

(i) whether eligible States to which grants are awarded under the program established under section 60304 are—

(I) abiding by the assurances made by those States under subsection (e) of that section;

(II) meeting, or have met, the stated goals of the Digital Equity Plans developed by the States under subsection (c) of that section;

(III) satisfying the requirements imposed by the Assistant Secretary on those States under subsection (g) of that section; and

(IV) in compliance with any other rules, requirements, or regulations promulgated by the Assistant Secretary in implementing that program; and

(ii) whether entities to which grants are awarded under the program established under section 60305 are—

(I) abiding by the assurances made by those entities under subsection (f) of that section;

(II) meeting, or have met, the stated goals of those entities with respect to the use of the grant amounts;

(III) satisfying the requirements imposed by the Assistant Secretary on those States under subsection (h) of that section; and

(IV) in compliance with any other rules, requirements, or regulations promulgated by the Assistant Secretary in implementing that program.

(2) PUBLIC AVAILABILITY.—The Assistant Secretary shall make each report submitted under paragraph (1)(A) publicly available in an online format that—

(A) facilitates access and ease of use;

(B) is searchable; and

(C) is accessible—

(i) to individuals with disabilities; and

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(ii) in languages other than English.

(b) AUTHORITY TO CONTRACT AND ENTER INTO OTHER ARRANGEMENTS.—The Assistant Secretary may award grants and enter into contracts, cooperative agreements, and other arrangements with Federal agencies, public and private organizations, and other entities with expertise that the Assistant Secretary determines appropriate in order to—

(1) evaluate the impact and efficacy of activities supported by grants awarded under the covered programs; and

(2) develop, catalog, disseminate, and promote the exchange of best practices, both with respect to and independent of the covered programs, in order to achieve digital equity.

(c) CONSULTATION AND PUBLIC ENGAGEMENT.—In carrying out subsection (a), and to further the objectives described in paragraphs (1) and (2) of subsection (b), the Assistant Secretary shall conduct ongoing collaboration and consult with—

(1) the Secretary of Agriculture;

(2) the Secretary of Housing and Urban Development;

(3) the Secretary of Education;

(4) the Secretary of Labor;

(5) the Secretary of Health and Human Services;

(6) the Secretary of Veterans Affairs;

(7) the Secretary of the Interior;

(8) the Federal Communications Commission;

(9) the Federal Trade Commission;

(10) the Director of the Institute of Museum and Library Services;

(11) the Administrator of the Small Business Administration;

(12) the Federal Co-Chair of the Appalachian Regional Commission;

(13) State agencies and governors of States (or equivalent officials);

(14) entities serving as administering entities for States under section 60304(b);

(15) national, State, tribal, and local organizations that provide digital inclusion, digital equity, or digital literacy services;

(16) researchers, academics, and philanthropic organizations; and

(17) other agencies, organizations (including international organizations), entities (including entities with expertise in the fields of data collection, analysis and modeling, and evaluation), and community stakeholders, as determined appropriate by the Assistant Secretary.

(d) TECHNICAL SUPPORT AND ASSISTANCE.—The Assistant Secretary shall provide technical support and assistance, assistance to entities to prepare the applications of those entities with respect to grants awarded under the covered programs, and other resources, to the extent practicable, to ensure consistency in data reporting and to meet the objectives of this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section, which shall remain available until expended.

SEC. 60307. GENERAL PROVISIONS.

(a) NONDISCRIMINATION.—

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(1) IN GENERAL.—No individual in the United States may, on the basis of actual or perceived race, color, religion, national origin, sex, gender identity, sexual orientation, age, or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that is funded in whole or in part with funds made available to carry out this title.

(2) ENFORCEMENT.—The Assistant Secretary shall effectuate paragraph (1) with respect to any program or activity described in that paragraph by issuing regulations and taking actions consistent with section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–1).

(3) JUDICIAL REVIEW.—Judicial review of an action taken by the Assistant Secretary under paragraph (2) shall be available to the extent provided in section 603 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–2).

(b) TECHNOLOGICAL NEUTRALITY.—The Assistant Secretary shall, to the extent practicable, carry out this title in a technologically neutral manner.

(c) AUDIT AND OVERSIGHT.—Beginning in the first fiscal year in which amounts are made available to carry out an activity authorized under this title, and in each of the 4 fiscal years thereafter, there is authorized to be appropriated to the Office of Inspector General for the Department of Commerce $1,000,000 for audits and oversight of funds made available to carry out this title, which shall remain available until expended.

TITLE IV—ENABLING MIDDLE MILE BROADBAND INFRASTRUCTURE

SEC. 60401. ENABLING MIDDLE MILE BROADBAND INFRASTRUCTURE.

(a) DEFINITIONS.—In this section:

(1) ANCHOR INSTITUTION.—The term "anchor institution" means a school, library, medical or healthcare provider, community college or other institution of higher education, or other community support organization or entity.

(2) ASSISTANT SECRETARY.—The term "Assistant Secretary" means the Assistant Secretary of Commerce for Communications and Information.

(3) COMMISSION.—The term "Commission" means the Federal Communications Commission.

(4) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a State, political subdivision of a State, Tribal government, technology company, electric utility, utility cooperative, public utility district, telecommunications company, telecommunications cooperative, nonprofit foundation, nonprofit corporation, nonprofit institution, nonprofit association, regional planning counsel, Native entity, or economic development authority; or

(B) a partnership of 2 or more entities described in subparagraph (A).

(5) FCC FIXED BROADBAND MAP.—The term "FCC fixed broadband map" means the map created by the Commission under section 802(c)(1)(B) of the Communications Act of 1934 (47 U.S.C. 642(c)(1)(B)).

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(6) INDIAN TRIBE.—The term "Indian Tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304)).

(7) INTERCONNECT.—The term "interconnect" means the physical linking of 2 networks for the mutual exchange of traffic on non-discriminatory terms and conditions.

(8) INTERNET EXCHANGE FACILITY.—The term "internet exchange facility" means physical infrastructure through which internet service providers and content delivery networks exchange internet traffic between their networks.

(9) MIDDLE MILE INFRASTRUCTURE.—The term "middle mile infrastructure"—

(A) means any broadband infrastructure that does not connect directly to an end-user location, including an anchor institution; and

(B) includes—

(i) leased dark fiber, interoffice transport, backhaul, carrier-neutral internet exchange facilities, carrier-neutral submarine cable landing stations, undersea cables, transport connectivity to data centers, special access transport, and other similar services; and

(ii) wired or private wireless broadband infrastructure, including microwave capacity, radio tower access, and other services or infrastructure for a private wireless broadband network, such as towers, fiber, and microwave links.

(10) MIDDLE MILE GRANT.—The term "middle mile grant" means a grant awarded under subsection (c).

(11) NATIVE ENTITY.—The term "Native entity" means—

(A) an Indian Tribe;

(B) an Alaska Native Corporation;

(C) a Native Hawaiian organization (as defined in section 6207 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7517));

(D) the Department of Hawaiian Home Lands; and

(E) the Office of Hawaiian Affairs.

(12) STATE.—The term "State" has the meaning given the term in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

(13) SUBMARINE CABLE LANDING STATION.—The term "submarine cable landing station" means a cable landing station, as that term is used in section 1.767(a)(5) of title 47, Code of Federal Regulations (or any successor regulation), that can be utilized to land a submarine cable by an entity that has obtained a license under the first section of the Act entitled "An Act relating to the landing and operation of submarine cables in the United States", approved May 27, 1921 (47 U.S.C. 34) (commonly known as the "Cable Landing Licensing Act").

(14) TRIBAL GOVERNMENT.—The term "Tribal government" means the recognized governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list published most recently as of the date of enactment of this Act pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).

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(15) TRUST LAND.—The term "trust land" has the meaning given the term in section 3765 of title 38, United States Code.

(16) UNDERSERVED.—The term "underserved", with respect to an area, means an area—

(A) that is designated as a Tribally underserved area through the process described in subsection (g); or

(B) that—

(i) is of a standard size not larger than a census block, as established by the Commission;

(ii) is not an unserved area; and

(iii) as determined in accordance with the FCC fixed broadband map, does not have access to broadband service with—

(I) except as provided in subclause (II)—

(aa) a download speed of not less than 100 megabits per second; and

(bb) an upload speed of not less than 20 megabits per second; or

(II) minimum download and upload speeds established as benchmarks by the Commission for purposes of this Act after the date of enactment of this Act, if those minimum speeds are higher than the minimum speeds required under subclause (I).

(17) UNSERVED.—The term "unserved", with respect to an area, means an area—

(A) that is designated as a Tribally underserved area through the process described in subsection (g); or

(B) that—

(i) is of a standard size not larger than a census block, as established by the Commission; and

(ii) as determined in accordance with the FCC fixed broadband map, does not have access to broadband service with—

(I) except as provided in subclause (II)—

(aa) a download speed of not less than 25 megabits per second; and

(bb) an upload speed of not less than 3 megabits per second; or

(II) minimum download and upload speeds established as benchmarks by the Commission for purposes of this Act after the date of enactment of this Act, if those minimum speeds are higher than the minimum speeds required under subclause (I).

(b) PURPOSE; SENSE OF CONGRESS.—

(1) PURPOSE.—The purposes of this section are—

(A) to encourage the expansion and extension of middle mile infrastructure to reduce the cost of connecting unserved and underserved areas to the backbone of the internet (commonly referred to as the "last mile"); and

(B) to promote broadband connection resiliency through the creation of alternative network connection paths that can be designed to prevent single points of failure on a broadband network.

(2) SENSE OF CONGRESS.—It is the sense of Congress that—

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(A) in awarding middle mile grants, the Assistant Secretary should give priority to—

(i) projects that leverage existing rights-of-way, assets, and infrastructure to minimize financial, regulatory, and permitting challenges;

(ii) projects in which the eligible entity designs the route of the middle mile infrastructure to enable the connection of unserved anchor institutions, including Tribal anchor institutions; and

(iii) projects that facilitate the development of carrier-neutral interconnection facilities; and

(iv) projects that—

(I) improve the redundancy and resiliency of existing middle mile infrastructure; and

(II) reduce regulatory and permitting barriers to promote the construction of new middle mile infrastructure; and

(B) a regulated utility should use funds received from a middle mile grant as a supplement to the core utility capital investment plan of the regulated utility to—

(i) facilitate increased broadband resiliency or redundancy of existing middle mile infrastructure; or

(ii) provide connectivity to unserved areas and underserved areas within the service territory of the utility and nearby communities.

(c) MIDDLE MILE GRANTS.—The Assistant Secretary shall establish a program under which the Assistant Secretary makes grants on a technology-neutral, competitive basis to eligible entities for the construction, improvement, or acquisition of middle mile infrastructure.

(d) APPLICATIONS FOR GRANTS.—

(1) IN GENERAL.—The Assistant Secretary shall establish an application process for middle mile grants in accordance with this subsection.

(2) EVALUATION OF APPLICATIONS.—In establishing an application process for middle mile grants under paragraph (1), the Assistant Secretary shall give priority to an application from an eligible entity that satisfies 2 or more of the following conditions:

(A) The eligible entity adopts fiscally sustainable middle mile strategies.

(B) The eligible entity commits to offering non-discriminatory interconnect to terrestrial and wireless last mile broadband providers and any other party making a bona fide request.

(C) The eligible entity identifies specific terrestrial and wireless last mile broadband providers that have—

(i) expressed written interest in interconnecting with middle mile infrastructure planned to be deployed by the eligible entity; and

(ii) demonstrated sustainable business plans or adequate funding sources with respect to the interconnect described in clause (i).

(D) The eligible entity has identified supplemental investments or in-kind support (such as waived franchise or permitting fees) that will accelerate the completion of the planned project.

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(E) The eligible entity has demonstrated that the middle mile infrastructure will benefit national security interests of the United States and the Department of Defense.

(3) GRANT APPLICATION COMPETENCE.—The Assistant Secretary shall include in the application process established under paragraph (1) a requirement that an eligible entity provide evidence that the eligible entity is capable of carrying out a proposed project in a competent manner, including by demonstrating that the eligible entity has the financial, technical, and operational capability to carry out the proposed project and operate the resulting middle mile broadband network.

(e) ELIGIBILITY.—

(1) PRIORITIZATION.—To be eligible to obtain a middle mile grant, an eligible entity shall agree, in the application submitted through the process established under subsection (d), to prioritize—

(A) connecting middle mile infrastructure to last mile networks that provide or plan to provide broadband service to households in unserved areas;

(B) connecting non-contiguous trust lands; or

(C) the offering of wholesale broadband service at reasonable rates on a carrier-neutral basis.

(2) BUILDOUT TIMELINE.—Subject to paragraph (5), to be eligible to obtain a middle mile grant, an eligible entity shall agree, in the application submitted through the process established under subsection (d), to complete buildout of the middle mile infrastructure described in the application by not later than 5 years after the date on which amounts from the grant are made available to the eligible entity.

(3) PROJECT ELIGIBILITY REQUIREMENTS.—

(A) CAPABILITY TO SUPPORT RETAIL BROADBAND SERVICE.—A project shall be eligible for a middle mile grant if, at the time of the application, the Assistant Secretary determines that the proposed middle mile broadband network will be capable of supporting retail broadband service.

(B) MAPPING DATA.—

(i) USE OF MOST RECENT DATA.—In mapping out gaps in broadband coverage, an eligible entity that uses a middle mile grant to build out terrestrial or fixed wireless middle mile infrastructure shall use the most recent broadband mapping data available from one of the following sources:

(I) The FCC fixed broadband map.

(II) The State in which the area that will be served by the middle mile infrastructure is located, or the Tribal government with jurisdiction over the area that will be served by the middle mile infrastructure (if applicable).

(III) Speed and usage surveys of existing broadband service that—

(aa) demonstrate that more than 25 percent of the respondents display a broadband service speed that is slower than the speeds required for an area to qualify as unserved; and

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(bb) are conducted by—

(AA) the eligible entity;

(BB) the State in which the area that will be served by the middle mile infrastructure is located; or

(CC) the Tribal government with jurisdiction over the area that will be served by the middle mile infrastructure (if applicable).

(ii) SHARING FACILITY LOCATIONS.—

(I) DEFINITION.—In this clause, the term "covered recipient", with respect to an eligible entity, means—

(aa) the Assistant Secretary;

(bb) the Commission;

(cc) the Tribal government with jurisdiction over the area that will be served by the middle mile infrastructure (if applicable); and

(dd) the State broadband office for the State in which the area that will be served by the middle mile infrastructure is located.

(II) PROVISION OF INFORMATION.—Subject to subclauses (III) and (IV), an eligible entity that constructs, improves, or acquires middle mile infrastructure using a middle mile grant shall share with each covered recipient the location of all the middle mile broadband infrastructure.

(III) FORMAT.—An eligible entity shall provide the information required under subclause (II) to each covered recipient in a uniform format determined by the Assistant Secretary.

(IV) PROTECTION OF INFORMATION.—

(aa) IN GENERAL.—The information provided by an eligible entity under subclause (II) may only be used for purposes of carrying out the grant program under subsection (c) and any reporting related thereto.

(bb) LEGAL DEFENSES.—

(AA) IN GENERAL.—A covered recipient may not receive information under subclause (II) unless the covered recipient agrees in writing to assert all available legal defenses to the disclosure of the information if a person or entity seeks disclosure from the covered recipient under any Federal, State, or local public disclosure law.

(BB) RULE OF CONSTRUCTION.—Nothing in subitem (AA) is intended to be or shall be construed as a waiver of Tribal sovereign immunity.

(C) CONNECTION TO ANCHOR INSTITUTIONS.—To the extent feasible, an eligible entity that receives a middle mile grant to build middle mile infrastructure using fiber optic technology shall—

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(i) ensure that the proposed middle mile broadband network will be capable of providing broadband to an anchor institution at a speed of not less than—

(I) 1 gigabit per second for downloads; and

(II) 1 gigabit per second for uploads to an anchor institution; and

(ii) include direct interconnect facilities that will facilitate the provision of broadband service to anchor institutions located within 1,000 feet of the middle mile infrastructure.

(D) INTERCONNECTION AND NONDISCRIMINATION.—

(i) IN GENERAL.—An eligible entity that receives a middle mile grant to build a middle mile project using fiber optic technology shall offer interconnection in perpetuity, where technically feasible without exceeding current or reasonably anticipated capacity limitations, on reasonable rates and terms to be negotiated with requesting parties.

(ii) NATURE OF INTERCONNECTION.—The interconnection required to be offered under clause (i) includes both the ability to connect to the public internet and physical interconnection for the exchange of traffic.

(iii) INCLUSION IN APPLICATION.—An applicant for a middle mile grant shall disclose the applicant's proposed interconnection, nondiscrimination, and network management practices in the application submitted through the process established under subsection (d).

(4) ACCOUNTABILITY.—The Assistant Secretary shall—

(A) establish sufficient transparency, accountability, reporting, and oversight measures for the grant program established under subsection (c) to deter waste, fraud, and abuse of program funds; and

(B) establish—

(i) buildout requirements for each eligible entity that receives a middle mile grant, which shall require the completion of a certain percentage of project miles by a certain date; and

(ii) penalties, which may include rescission of funds, for grantees that do not meet requirements described in clause (i) or the deadline under paragraph (2).

(5) EXTENSIONS.—

(A) IN GENERAL.—At the request of an eligible entity, the Assistant Secretary may extend the buildout deadline under paragraph (2) by not more than 1 year if the eligible entity certifies that—

(i) the eligible entity has a plan for use of the middle mile grant;

(ii) the project to build out middle mile infrastructure is underway; or

(iii) extenuating circumstances require an extension of time to allow completion of the project to build out middle mile infrastructure.

(B) EFFECT ON INTERIM BUILDOUT REQUIREMENTS.—If the Assistant Secretary grants an extension under subparagraph (A), the Assistant Secretary shall modify

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any buildout requirements established under paragraph (4)(B)(i) as necessary.

(f) FEDERAL SHARE.—The amount of a middle mile grant awarded to an eligible entity may not exceed 70 percent of the total project cost.

(g) SPECIAL RULES FOR TRIBAL GOVERNMENTS.—

(1) WAIVERS; ALTERNATIVE REQUIREMENTS.—The Assistant Secretary, in consultation with Tribal governments and Native entities, may waive, or specify alternative requirements for, any provision of subsections (c) through (f) if the Assistant Secretary finds that the waiver or alternative requirement is necessary—

(A) for the effective delivery and administration of middle mile grants to Tribal governments; or

(B) the construction, improvement, or acquisition of middle mile infrastructure on trust land.

(2) TRIBALLY UNSERVED AREAS; TRIBALLY UNDERSERVED AREAS.—The Assistant Secretary, in consultation with Tribal governments and Native entities, shall develop a process for designating Tribally unserved areas and Tribally underserved areas for purposes of this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000,000 for fiscal years 2022 through 2026.

TITLE V—BROADBAND AFFORDABILITY

SEC. 60501. DEFINITIONS.

In this title—

(1) the term "broadband internet access service" has the meaning given the term in section 8.1(b) of title 47, Code of Federal Regulations, or any successor regulation; and

(2) the term "Commission" means the Federal Communications Commission.

SEC. 60502. BROADBAND AFFORDABILITY.

(a) EXTENSION AND MODIFICATION OF EMERGENCY BROADBAND BENEFIT.—

(1) EXTENSION.—Section 904 of division N of the Consolidated Appropriations Act, 2021 (Public Law 116–260) is amended—

(A) in the heading, by striking "**DURING EMERGENCY PERIOD RELATING TO COVID–19**";

(B) in subsection (a)—

(i) by striking paragraph (8); and

(ii) by redesignating paragraphs (9) through (13) as paragraphs (8) through (12), respectively; and

(C) in subsection (b)—

(i) in paragraph (1), by striking "during the emergency period";

(ii) in paragraph (4), by striking "during the emergency period"; and

(iii) in paragraph (5), by striking "during the emergency period,".

(2) CHANGE TO PROGRAM NAME.—Section 904 of division N of the Consolidated Appropriations Act, 2021 (Public Law

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116–260), as amended by paragraph (1) of this subsection, is amended—

(A) in subsection (a)(7), in the heading, by striking "EMERGENCY BROADBAND" and inserting "AFFORDABLE CONNECTIVITY";

(B) in subsection (b), in the heading, by striking "EMERGENCY BROADBAND BENEFIT" and inserting "AFFORDABLE CONNECTIVITY";

(C) in subsection (i), in the heading, by striking "EMERGENCY BROADBAND" and inserting "AFFORDABLE";

(D) by striking "Emergency Broadband Benefit" each place the term appears and inserting "Affordable Connectivity";

(E) by striking "Emergency Broadband" each place the term appears and inserting "Affordable"; and

(F) by striking "emergency broadband" each place the term appears and inserting "affordable connectivity".

(3) OTHER INITIAL MODIFICATIONS.—Section 904 of division N of the Consolidated Appropriations Act, 2021 (Public Law 116–260), as amended by paragraph (2) of this subsection, is amended—

(A) in subsection (a)(7)—

(i) by striking "The term" and inserting the following:

"(A) IN GENERAL.—Subject to subparagraph (B), the term"; and

(ii) by adding at the end the following:

"(B) HIGH-COST AREAS.—The Commission shall, by regulation, establish a mechanism by which a participating provider in a high-cost area (as defined in section 60102(a)(2) of the Infrastructure Investment and Jobs Act) may provide an affordable connectivity benefit in an amount up to the amount specified in subparagraph (A) for an internet service offering provided on Tribal land upon a showing that the applicability of the lower limit under subparagraph (A) to the provision of the affordable connectivity benefit by the provider would cause particularized economic hardship to the provider such that the provider may not be able to maintain the operation of part or all of its broadband network.";

(B) in subsection (b)—

(i) by redesignating paragraphs (7) through (10) as paragraphs (12) through (15), respectively;

(ii) by inserting after paragraph (6) the following:

"(7) REQUIREMENT TO ALLOW CUSTOMERS TO APPLY AFFORDABLE CONNECTIVITY BENEFIT TO ANY INTERNET SERVICE OFFERING.—

"(A) IN GENERAL.—A participating provider—

"(i) shall allow an eligible household to apply the affordable connectivity benefit to any internet service offering of the participating provider at the same terms available to households that are not eligible households; and

"(ii) may not require the eligible household to submit to a credit check in order to apply the affordable connectivity benefit to an internet service offering of the participating provider.

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"(B) NONPAYMENT.—Nothing in subparagraph (A) shall prevent a participating provider from terminating the provision of broadband internet access service to a subscriber after 90 days of nonpayment.

"(8) PUBLIC AWARENESS.—A participating provider, in collaboration with the applicable State agencies, public interest groups, and non-profit organizations, in order to increase the adoption of broadband internet access service by consumers, shall carry out public awareness campaigns in service areas that are designed to highlight—

"(A) the value and benefits of broadband internet access service; and

"(B) the existence of the Affordable Connectivity Program.

"(9) OVERSIGHT.—The Commission—

"(A) shall establish a dedicated complaint process for consumers who participate in the Affordable Connectivity Program to file complaints about the compliance of participating providers with, including with respect to the quality of service received under, the Program;

"(B) shall require a participating provider to supply information about the existence of the complaint process described in subparagraph (A) to subscribers who participate in the Affordable Connectivity Program;

"(C)(i) shall act expeditiously to investigate potential violations of and enforce compliance with this section, including under clause (ii) of this subparagraph; and

"(ii) in enforcing compliance with this section, may impose forfeiture penalties under section 503 of the Communications Act of 1934 (47 U.S.C. 503); and

"(D) shall regularly issue public reports about complaints regarding the compliance of participating providers with the Affordable Connectivity Program.

"(10) INFORMATION ON AFFORDABLE CONNECTIVITY PROGRAM.—

"(A) PARTICIPATING PROVIDERS.—When a customer subscribes to, or renews a subscription to, an internet service offering of a participating provider, the participating provider shall notify the customer about the existence of the Affordable Connectivity Program and how to enroll in the Program.

"(B) FEDERAL AGENCIES.—The Commission shall collaborate with relevant Federal agencies, including to ensure relevant Federal agencies update their System of Records Notices, to ensure that a household that participates in any program that qualifies the household for the Affordable Connectivity Program is provided information about the Program, including how to enroll in the Program.

"(C) COMMISSION OUTREACH.—

"(i) IN GENERAL.—The Commission may conduct outreach efforts to encourage eligible households to enroll in the Affordable Connectivity Program.

"(ii) ACTIVITIES.—In carrying out clause (i), the Commission may—

"(I) facilitate consumer research;

"(II) conduct focus groups;

"(III) engage in paid media campaigns;

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"(IV) provide grants to outreach partners; and

"(V) provide an orderly transition for participating providers and consumers from the Emergency Broadband Benefit Program established under paragraph (1) (as that paragraph was in effect on the day before the date of enactment of the Infrastructure Investment and Jobs Act) to the Affordable Connectivity Program.

"(11) CONSUMER PROTECTION ISSUES.—

"(A) IN GENERAL.—The Commission shall, after providing notice and opportunity for comment in accordance with section 553 of title 5, United States Code, promulgate rules to protect consumers who participate in, or seek to participate in, the Affordable Connectivity Program from—

"(i) inappropriate upselling or downselling by a participating provider;

"(ii) inappropriate requirements that a consumer opt in to an extended service contract as a condition of participating in the Affordable Connectivity Program;

"(iii) inappropriate restrictions on the ability of a consumer to switch internet service offerings or otherwise apply support from the Affordable Connectivity Program to a different internet service offering with a participating provider;

"(iv) inappropriate restrictions on the ability of a consumer to switch participating providers, other than a requirement that the customer return any customer premises equipment provided by a participating provider; and

"(v) similar restrictions that amount to unjust and unreasonable acts or practices that undermine the purpose, intent, or integrity of the Affordable Connectivity Program.

"(B) EXCEPTIONS.—In complying with this paragraph, the Commission may take advantage of the exceptions set forth in subsections (e) and (f).''; and

(iii) in paragraph (14), as so redesignated, by striking "paragraph (7)" and inserting "paragraph (12)".

(b) DELAYED AMENDMENTS TO AFFORDABLE CONNECTIVITY PROGRAM.—

(1) IN GENERAL.—Effective on the date on which the Commission submits the certification required under paragraph (4), or December 31, 2021, whichever is earlier, section 904 of division N of the Consolidated Appropriations Act, 2021 (Public Law 116–260), as amended by subsection (a) of this section, is amended—

(A) in subsection (a)—

(i) in paragraph (6)—

(I) in subparagraph (A), by inserting before the semicolon at the end the following: "except that such subsection (a), including for purposes of such subsection (b), shall be applied by substituting '200 percent' for '135 percent' ";

(II) by striking subparagraph (C);

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(III) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively;

(IV) in subparagraph (C), as so redesignated, by striking "or" at the end;

(V) in subparagraph (D), as so redesignated—

(aa) by striking "or COVID–19"; and

(bb) by striking the period at the end and inserting "; or"; and

(VI) by adding at the end the following:

"(E) at least one member of the household receives assistance through the special supplemental nutritional program for women, infants, and children established by section 17 of the Child Nutrition Act of 1996 (42 U.S.C. 1786).";

(ii) in paragraph (7)—

(I) by striking "which shall be no more than the standard rate for an internet service offering and associated equipment,"; and

(II) by striking "$50" and inserting "$30";

(iii) in paragraph (8), as so redesignated by subsection (a) of this section, by striking ", offered in the same manner, and on the same terms, as described in any of such provider's offerings for broadband internet access service to such household, as on December 1, 2020"; and

(iv) by striking paragraph (12), as so redesignated by subsection (a) of this section; and

(B) in subsection (b)(6)—

(i) by striking subparagraph (A);

(ii) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively; and

(iii) in subparagraph (A), as so redesignated—

(I) by striking clause (i); and

(II) by redesignating clauses (ii), (iii), and (iv) as clauses (i), (ii), and (iii), respectively.

(2) APPLICABILITY OF AMENDMENT TO ELIGIBILITY.— A household that qualified for the Affordable Connectivity Program under section 904 of division N of the Consolidated Appropriations Act, 2021 (Public Law 116–260) before the effective date in paragraph (1) and, as of that effective date, would, but for this subparagraph, see a reduction in the amount of the affordable connectivity benefit under the Program, shall, during the 60-day period beginning on that effective date, be eligible for the affordable connectivity benefit in the amount in effect with respect to that household, as of the day before that effective date.

(3) TRANSITION.—After the effective date under paragraph (1), an eligible household that was participating in the Emergency Broadband Benefit Program under section 904 of division N of the Consolidated Appropriations Act, 2021 (Public Law 116–260) on the day before the date of enactment of this Act and qualifies for the Affordable Connectivity Program established under that section (as amended by this section) shall continue to have access to an affordable service offering.

(4) CERTIFICATION REQUIRED.—On the date on which the amounts appropriated under section 904(i)(2) of division N of

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the Consolidated Appropriations Act, 2021 (Public Law 116–260) have been fully expended, the Commission shall submit to Congress a certification regarding that fact.

(c) BROADBAND TRANSPARENCY RULES.—

(1) RULES.—Not later than 1 year after the date of enactment of this Act, the Commission shall issue final rules regarding the annual collection by the Commission of data relating to the price and subscription rates of each internet service offering of a participating provider under the Affordable Connectivity Program established under section 904 of division N of the Consolidated Appropriations Act, 2021 (Public Law 116–260) (as amended by this section) to which an eligible household subscribes.

(2) UPDATES.—Not later than 180 days after the date on which rules are issued under paragraph (1), and when determined to be necessary by the Commission thereafter, the Commission shall revise the rules to verify the accuracy of data submitted pursuant to the rules.

(3) REDUNDANCY AVOIDANCE.—Nothing in this subsection shall be construed to require the Commission, in order to meet a requirement of this subsection, to duplicate an activity that the Commission is undertaking as of the date of enactment of this Act, if—

(A) the Commission refers to the activity in the rules issued under paragraph (1);

(B) the activity meets the requirements of this subsection; and

(C) the Commission discloses the activity to the public.

(4) AVAILABILITY OF DATA.—

(A) PUBLIC AVAILABILITY.—The Commission shall make data relating to broadband internet access service collected under the rules issued under paragraph (1) available to the public in a commonly used electronic format without risking the disclosure of personally identifiable information or proprietary information, consistent with section 0.459 of title 47, Code of Federal Regulations (or any successor regulation).

(B) DETERMINATION OF PERSONALLY IDENTIFIABLE INFORMATION.—The Commission—

(i) shall define the term "personally identifiable information", for purposes of subparagraph (A) through notice and comment rulemaking; and

(ii) may not make any data available to the public under subparagraph (A) before completing the rulemaking under clause (i) of this subparagraph.

(d) GUIDANCE.—The Commission may issue such guidance, forms, instructions, or publications, or provide such technical assistance, as may be necessary or appropriate to carry out the programs, projects, or activities authorized under this section and the amendments made by this section, including to ensure that such programs, projects, or activities are completed in a timely and effective manner.

(e) COORDINATION.—The Secretary of Agriculture, the Secretary of Education, and the Secretary of Health and Human Services shall—

(1) not later than 60 days after the date of enactment of this Act, enter into a memorandum of understanding with

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the Universal Service Administrative Company to provide for the expeditious sharing of data through the National Verifier (as that term is defined in section 54.400 of title 47, Code of Federal Regulations, or any successor regulation), or any successor system, for the purposes of verifying consumer eligibility for the program established under section 904 of division N of the Consolidated Appropriations Act, 2021 (Public Law 116–260), as amended by this section; and

(2) not later than 90 days after the date of enactment of this Act, begin to share data under the memorandum of understanding described in paragraph (1) for the purposes described in that paragraph.

SEC. 60503. COORDINATION WITH CERTAIN OTHER FEDERAL AGENCIES.

Section 804(b)(2) of the Communications Act of 1934 (47 U.S.C. 644(b)(2)), as added by section 2 of the Broadband DATA Act (Public Law 116–130), is amended—

(1) in subparagraph (A), by adding "and" at the end; and

(2) by striking subparagraphs (B) and (C) and inserting the following:

"(B) coordinate with the Postmaster General, the heads of other Federal agencies that operate delivery fleet vehicles, and the Director of the Bureau of the Census for assistance with data collection whenever coordination could feasibly yield more specific geographic data.".

SEC. 60504. ADOPTION OF CONSUMER BROADBAND LABELS.

(a) FINAL RULE.—Not later than 1 year after the date of enactment of this Act, the Commission shall promulgate regulations to require the display of broadband consumer labels, as described in the Public Notice of the Commission issued on April 4, 2016 (DA 16–357), to disclose to consumers information regarding broadband internet access service plans.

(b) INTRODUCTORY RATE INFORMATION.—

(1) IN GENERAL.—The broadband consumer label required under subsection (a) shall also include information regarding whether the offered price is an introductory rate and, if so, the price the consumer will be required to pay following the introductory period.

(2) USE IN BROADBAND DATA COLLECTION.—The Commission shall rely on the price information displayed on the broadband consumer label required under subsection (a) for any collection of data relating to the price and subscription rates of each covered broadband internet access service under section 60502(c).

(c) HEARINGS.—In issuing the final rule under subsection (a), the Commission shall conduct a series of public hearings to assess, at the time of the proceeding—

(1) how consumers evaluate broadband internet access service plans; and

(2) whether disclosures to consumers of information regarding broadband internet access service plans, including the disclosures required under section 8.1 of title 47, Code of Federal Regulations, are available, effective, and sufficient.

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SEC. 60505. GAO REPORT.

(a) DEFINITIONS.—In this section, the term "appropriate committees of Congress" means—

(1) the Committee on Appropriations of the Senate;

(2) the Committee on Appropriations of the House of Representatives;

(3) the Committee on Commerce, Science, and Transportation of the Senate;

(4) the Committee on Environment and Public Works of the Senate;

(5) the Committee on Agriculture, Nutrition, and Forestry of the Senate;

(6) the Committee on Energy and Commerce of the House of Representatives;

(7) the Committee on Agriculture of the House of Representatives; and

(8) the Committee on Transportation and Infrastructure of the House of the Representatives.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to the appropriate committees of Congress a report that evaluates the process used by the Commission for establishing, reviewing, and updating the upload and download speed thresholds for broadband internet access service, including—

(1) how the Commission reviews and updates broadband internet access speed thresholds;

(2) whether the Commission should consider future broadband internet access service speed needs when establishing broadband internet access service speed thresholds, including whether the Commission considers the need, or the anticipated need, for higher upload or download broadband internet access service speeds in the 5-year period and the 10-year period after the date on which a broadband internet access service speed threshold is to be established; and

(3) whether the Commission should consider the impacts of changing uses of the internet in establishing, reviewing, or updating broadband internet access service speed thresholds, including—

(A) the proliferation of internet-based business;

(B) working remotely and running a business from home;

(C) video teleconferencing;

(D) distance learning;

(E) in-house web hosting; and

(F) cloud data storage.

SEC. 60506. DIGITAL DISCRIMINATION.

(a) STATEMENT OF POLICY.—It is the policy of the United States that, insofar as technically and economically feasible—

(1) subscribers should benefit from equal access to broadband internet access service within the service area of a provider of such service;

(2) the term "equal access", for purposes of this section, means the equal opportunity to subscribe to an offered service that provides comparable speeds, capacities, latency, and other quality of service metrics in a given area, for comparable terms and conditions; and

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(3) the Commission should take steps to ensure that all people of the United States benefit from equal access to broadband internet access service.

(b) ADOPTION OF RULES.—Not later than 2 years after the date of enactment of this Act, the Commission shall adopt final rules to facilitate equal access to broadband internet access service, taking into account the issues of technical and economic feasibility presented by that objective, including—

(1) preventing digital discrimination of access based on income level, race, ethnicity, color, religion, or national origin; and

(2) identifying necessary steps for the Commissions to take to eliminate discrimination described in paragraph (1).

(c) FEDERAL POLICIES.—The Commission and the Attorney General shall ensure that Federal policies promote equal access to robust broadband internet access service by prohibiting deployment discrimination based on—

(1) the income level of an area;

(2) the predominant race or ethnicity composition of an area; or

(3) other factors the Commission determines to be relevant based on the findings in the record developed from the rulemaking under subsection (b).

(d) MODEL STATE AND LOCAL POLICIES.—The Commission shall develop model policies and best practices that can be adopted by States and localities to ensure that broadband internet access service providers do not engage in digital discrimination.

(e) COMPLAINTS.—The Commission shall revise its public complaint process to accept complaints from consumers or other members of the public that relate to digital discrimination.

TITLE VI—TELECOMMUNICATIONS INDUSTRY WORKFORCE

SEC. 60601. SHORT TITLE.

This title may be cited as the "Telecommunications Skilled Workforce Act".

SEC. 60602. TELECOMMUNICATIONS INTERAGENCY WORKING GROUP.

(a) IN GENERAL.—Part I of title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by adding at the end the following:

"SEC. 344. TELECOMMUNICATIONS INTERAGENCY WORKING GROUP.

"(a) DEFINITION.—In this section, the term 'telecommunications interagency working group' means the interagency working group established under subsection (b)(1).

"(b) ESTABLISHMENT.—

"(1) IN GENERAL.—Not later than 60 days after the date of enactment of this section, the Chairman of the Commission, in partnership with the Secretary of Labor, shall establish within the Commission an interagency working group to develop recommendations to address the workforce needs of the telecommunications industry, including the safety of that workforce.

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"(2) DATE OF ESTABLISHMENT.—The telecommunications interagency working group shall be considered established on the date on which a majority of the members of the working group have been appointed, consistent with subsection (d).

"(c) DUTIES.—In developing recommendations under subsection (b), the telecommunications interagency working group shall—

"(1) determine whether, and if so how, any Federal laws, regulations, guidance, policies, or practices, or any budgetary constraints, may be amended to strengthen the ability of institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) or for-profit businesses to establish, adopt, or expand programs intended to address the workforce needs of the telecommunications industry, including the workforce needed to build and maintain the 5G wireless infrastructure necessary to support 5G wireless technology;

"(2) identify potential policies and programs that could encourage and improve coordination among Federal agencies, between Federal agencies and States, and among States, on telecommunications workforce needs;

"(3) identify ways in which existing Federal programs, including programs that help facilitate the employment of veterans and military personnel transitioning into civilian life, could be leveraged to help address the workforce needs of the telecommunications industry;

"(4) identify ways to improve recruitment in workforce development programs in the telecommunications industry;

"(5) identify Federal incentives that could be provided to institutions of higher education, for-profit businesses, State workforce development boards established under section 101 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3111), or other relevant stakeholders to establish or adopt new programs, expand current programs, or partner with registered apprenticeship programs, to address the workforce needs of the telecommunications industry, including such needs in rural areas;

"(6) identify ways to improve the safety of telecommunications workers, including tower climbers; and

"(7) identify ways that trends in wages, benefits, and working conditions in the telecommunications industry impact recruitment of employees in the sector.

"(d) MEMBERS.—The telecommunications interagency working group shall be composed of the following representatives of Federal agencies and relevant non-Federal industry and labor stakeholder organizations:

"(1) A representative of the Department of Education, appointed by the Secretary of Education.

"(2) A representative of the National Telecommunications and Information Administration, appointed by the Assistant Secretary of Commerce for Communications and Information.

"(3) A representative of the Commission, appointed by the Chairman of the Commission.

"(4) A representative of a registered apprenticeship program in construction or maintenance, appointed by the Secretary of Labor.

"(5) A representative of a telecommunications industry association, appointed by the Chairman of the Commission.

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"(6) A representative of an Indian Tribe or Tribal organization, appointed by the Chairman of the Commission.

"(7) A representative of a rural telecommunications carrier, appointed by the Chairman of the Commission.

"(8) A representative of a telecommunications contractor firm, appointed by the Chairman of the Commission.

"(9) A representative of an institution of higher education described in section 371(a) of the Higher Education Act of 1965 (20 U.S.C. 1067q(a)), appointed by the Secretary of Education.

"(10) A public interest advocate for tower climber safety, appointed by the Secretary of Labor.

"(11) A representative of the Directorate of Construction of the Occupational Safety and Health Administration, appointed by the Secretary of Labor.

"(12) A representative of a labor organization representing the telecommunications workforce, appointed by the Secretary of Labor.

"(e) NO COMPENSATION.—A member of the telecommunications interagency working group shall serve without compensation.

"(f) OTHER MATTERS.—

"(1) CHAIR AND VICE CHAIR.—The telecommunications interagency working group shall name a chair and a vice chair, who shall be responsible for organizing the business of the working group.

"(2) SUBGROUPS.—The chair and vice chair of the telecommunications interagency working group, in consultation with the other members of the telecommunications interagency working group, may establish such subgroups as necessary to help conduct the work of the telecommunications interagency working group.

"(3) SUPPORT.—The Commission and the Secretary of Labor may detail employees of the Commission and the Department of Labor, respectively, to assist and support the work of the telecommunications interagency working group, though such a detailee shall not be considered to be a member of the working group.

"(g) REPORT TO CONGRESS.—

"(1) REPORT TO CONGRESS.—Not later than 1 year after the date on which the telecommunications interagency working group is established, the working group shall submit a report containing its recommendations to address the workforce needs of the telecommunications industry to—

"(A) the Committee on Commerce, Science, and Transportation of the Senate;

"(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

"(C) the Committee on Energy and Commerce of the House of Representatives;

"(D) the Committee on Education and Labor of the House of Representatives;

"(E) the Department of Labor; and

"(F) the Commission.

"(2) MAJORITY SUPPORT.—The telecommunications interagency working group may not submit the report under paragraph (1) unless the report has the support of not less than the majority of the members of the working group.

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"(3) VIEWS.—The telecommunications interagency working group shall—

"(A) include with the report submitted under paragraph (1) any concurring or dissenting view offered by a member of the working group; and

"(B) identify each member to whom each concurring or dissenting view described in subparagraph (A) should be attributed.

"(4) PUBLIC POSTING.—The Commission and the Secretary of Labor shall make a copy of the report submitted under paragraph (1) available to the public on the websites of the Commission and the Department of Labor, respectively.

"(h) NONAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the telecommunications interagency working group.".

(b) SUNSET.—Section 344 of the Communications Act of 1934, as added by subsection (a), shall be repealed on the day after the date on which the interagency working group established under subsection (b)(1) of that section submits the report to Congress under subsection (g) of that section.

SEC. 60603. TELECOMMUNICATIONS WORKFORCE GUIDANCE.

Not later than 1 year after the date of enactment of this Act, the Secretary of Labor, in partnership with the Chairman of the Federal Communications Commission, shall establish and issue guidance on how States can address the workforce needs and safety of the telecommunications industry, including guidance on how a State workforce development board established under section 101 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3111) can—

(1) utilize Federal resources available to States to meet the workforce needs of the telecommunications industry;

(2) promote and improve recruitment in workforce development programs in the telecommunications industry; and

(3) ensure the safety of the telecommunications workforce, including tower climbers.

SEC. 60604. GAO ASSESSMENT OF WORKFORCE NEEDS OF THE TELECOMMUNICATIONS INDUSTRY.

(a) DEFINITIONS.—In this section, the term "appropriate congressional committees" means—

(1) the Committee on Commerce, Science, and Transportation of the Senate;

(2) the Committee on Health, Education, Labor, and Pensions of the Senate;

(3) the Committee on Energy and Commerce of the House of Representatives; and

(4) the Committee on Education and Labor of the House of Representatives.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall submit to the appropriate congressional committees a report that estimates the number of skilled telecommunications workers that will be required to build and maintain—

(1) broadband infrastructure in rural areas, including estimates based on—

(A) current need; and

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(B) projected need, if Congress enacts legislation that accelerates broadband infrastructure construction in the United States; and

(2) the wireless infrastructure needed to support 5G wireless technology.

DIVISION G—OTHER AUTHORIZATIONS

TITLE I—INDIAN WATER RIGHTS SETTLEMENT COMPLETION FUND

SEC. 70101. INDIAN WATER RIGHTS SETTLEMENT COMPLETION FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the "Indian Water Rights Settlement Completion Fund" (referred to in this section as the "Fund").

(b) DEPOSITS.—

(1) IN GENERAL.—On the later of October 1, 2021, and the date of enactment of this Act, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall deposit in the Fund $2,500,000,000, to remain available until expended.

(2) AVAILABILITY.—Amounts deposited in the Fund under paragraph (1) shall be available to the Secretary of the Interior, without further appropriation or fiscal year limitation, for the uses described in subsection (c).

(c) USES.—Subject to subsection (d), amounts deposited in the Fund under subsection (b) shall be used by the Secretary of the Interior for transfers to funds or accounts authorized to receive discretionary appropriations, or to satisfy other obligations identified by the Secretary of the Interior, under an Indian water settlement approved and authorized by an Act of Congress before the date of enactment of this Act.

(d) SCOPE OF TRANSFERS.—

(1) IN GENERAL.—Transfers authorized under subsection (c) shall be made in such amounts as are determined by the Secretary of the Interior to be appropriate to satisfy the obligations of the United States, including appropriate indexing, pursuant to the applicable Indian water settlement.

(2) SEQUENCE AND TIMING.—The Secretary of the Interior shall have the discretion to determine the sequence and timing of transfers from the Fund under subsection (c) in order to substantially complete the eligible Indian water settlements as expeditiously as practicable.

TITLE II—WILDFIRE MITIGATION

SEC. 70201. SHORT TITLE.

This title may be cited as the "Wildland Fire Mitigation and Management Commission Act of 2021".

SEC. 70202. DEFINITIONS.

In this title:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term "appropriate committees of Congress" means—

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(A) the Committee on Energy and Natural Resources of the Senate;

(B) the Committee on Agriculture, Nutrition, and Forestry of the Senate;

(C) the Committee on Homeland Security and Governmental Affairs of the Senate;

(D) the Committee on Appropriations of the Senate;

(E) the Committee on Environment and Public Works of the Senate;

(F) the Committee on Natural Resources of the House of Representatives;

(G) the Committee on Agriculture of the House of Representatives;

(H) the Committee on Homeland Security of the House of Representatives;

(I) the Committee on Appropriations of the House of Representatives;

(J) the Committee on Ways and Means of the House of Representatives; and

(K) the Committee on Natural Resources of the House of Representatives.

(2) COMMISSION.—The term "Commission" means the commission established under section 70203(a).

(3) HIGH-RISK INDIAN TRIBAL GOVERNMENT.—The term "high-risk Indian tribal government" means an Indian tribal government, during not fewer than 4 of the 5 years preceding the date of enactment of this Act—

(A) that received fire management assistance under section 420 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5187); or

(B) land of which included an area for which the President declared a major disaster for fire in accordance with section 401 of that Act (42 U.S.C. 5170).

(4) HIGH-RISK STATE.—The term "high-risk State" means a State that, during not fewer than 4 of the 5 years preceding the date of enactment of this Act—

(A) received fire management assistance under section 420 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5187); or

(B) included an area for which the President declared a major disaster for fire in accordance with section 401 of that Act (42 U.S.C. 5170).

(5) INDIAN TRIBAL GOVERNMENT.—The term "Indian tribal government" has the meaning given the term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

(6) SECRETARIES.—The term "Secretaries" means—

(A) the Secretary of the Interior;

(B) the Secretary of Agriculture; and

(C) the Secretary of Homeland Security, acting through the Administrator of the Federal Emergency Management Agency.

(7) STATE.—The term "State" has the meaning given the term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

(8) WILDLAND-URBAN INTERFACE.—The term "wildland-urban interface" has the meaning given the term in section

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101 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6511).

SEC. 70203. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—Not later than 30 days after the date of enactment of this Act, the Secretaries shall jointly establish a commission to study and make recommendations to improve Federal policies relating to—

(1) the prevention, mitigation, suppression, and management of wildland fires in the United States; and

(2) the rehabilitation of land in the United States devastated by wildland fires.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of—

(A) each of the Secretaries (or designees), who shall jointly serve as the co-chairpersons of the Commission;

(B) 9 representatives of Federal departments or agencies, to be appointed by the Secretaries, including—

(i) not fewer than 1 representative from each of—

(I) the Bureau of Land Management;

(II) the National Park Service;

(III) the Bureau of Indian Affairs;

(IV) the United States Fish and Wildlife Service; and

(V) the Forest Service;

(ii) a representative of or liaison to the Mitigation Framework Leadership Group of the Federal Emergency Management Agency;

(iii) a representative to the National Interagency Coordination Center, which is part of the National Wildfire Coordination Group;

(iv) a representative from 1 of the coordinating agencies of the Recovery Support Function Leadership Group; and

(v) if the Secretaries determine it to be appropriate, a representative of any other Federal department or agency, such as the Department of Energy, the Environmental Protection Agency, or the Department of Defense; and

(C) 18 non-Federal stakeholders with expertise in wildland fire preparedness, mitigation, suppression, or management, who collectively have a combination of backgrounds, experiences, and viewpoints and are representative of rural, urban, and suburban areas, to be appointed by the Secretaries, including—

(i) not fewer than 1 State hazard mitigation officer of a high-risk State (or a designee);

(ii) with preference given to representatives from high-risk States and high-risk Indian tribal governments, not fewer than 1 representative from each of—

(I) a State department of natural resources, forestry, or agriculture or a similar State agency;

(II) a State department of energy or a similar State agency;

(III) a county government, with preference given to counties at least a portion of which is in the wildland-urban interface; and

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(IV) a municipal government, with preference given to municipalities at least a portion of which is in the wildland-urban interface;

(iii) with preference given to representatives from high-risk States and high-risk Indian tribal governments, not fewer than 1 representative from each of—

(I) the public utility industry;

(II) the property development industry;

(III) Indian tribal governments;

(IV) wildland firefighters; and

(V) an organization—

(aa) described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of that Code; and

(bb) with expertise in forest management and environmental conservation;

(iv) not greater than 2 other appropriate non-Federal stakeholders, which may include the private sector; and

(v) any other appropriate non-Federal stakeholders, which may include the private sector, with preference given to non-Federal stakeholders from high-risk States and high-risk Indian tribal governments.

(2) STATE LIMITATION.—Each member of the Commission appointed under clauses (i) and (ii) of paragraph (1)(C) shall represent a different State.

(3) DATE.—The appointments of the members of the Commission shall be made not later than 60 days after the date of enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—

(1) IN GENERAL.—A member of the Commission shall be appointed for the life of the Commission.

(2) VACANCIES.—A vacancy in the Commission—

(A) shall not affect the powers of the Commission; and

(B) shall be filled in the same manner as the original appointment.

(d) MEETINGS.—

(1) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the first meeting of the Commission.

(2) FREQUENCY.—The Commission shall meet not less frequently than once every 30 days.

(3) TYPE.—The Commission may hold meetings, and a member of the Commission may participate in a meeting, remotely through teleconference, video conference, or similar means.

(4) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

SEC. 70204. DUTIES OF COMMISSION.

(a) REPORT ON RECOMMENDATIONS TO MITIGATE AND MANAGE WILDLAND FIRES.—

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(1) IN GENERAL.—Not later than 1 year after the date of the first meeting of the Commission, the Commission shall submit to the appropriate committees of Congress a report describing recommendations to prevent, mitigate, suppress, and manage wildland fires, including—

(A) policy recommendations, including recommendations—

(i) to maximize the protection of human life, community water supplies, homes, and other essential structures, which may include recommendations to expand the use of initial attack strategies;

(ii) to facilitate efficient short- and long-term forest management in residential and nonresidential at-risk areas, which may include a review of community wildfire protection plans;

(iii) to manage the wildland-urban interface;

(iv) to manage utility corridors;

(v) to rehabilitate land devastated by wildland fire; and

(vi) to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to conduct hazardous fuels reduction projects;

(B) policy recommendations described in subparagraph (A) with respect to any recommendations for—

(i) categorical exclusions from the requirement to prepare an environmental impact statement or analysis under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(ii) additional staffing or resources that may be necessary to more expeditiously prepare an environmental impact statement or analysis under that Act;

(C) policy recommendations for modernizing and expanding the use of technology, including satellite technology, remote sensing, unmanned aircraft systems, and any other type of emerging technology, to prevent, mitigate, suppress, and manage wildland fires, including any recommendations with respect to—

(i) the implementation of section 1114 of the John D. Dingell, Jr. Conservation, Management, and Recreation Act (43 U.S.C. 1748b–1); or

(ii) improving early wildland fire detection;

(D) an assessment of Federal spending on wildland fire-related disaster management, including—

(i) a description and assessment of Federal grant programs for States and units of local government for pre- and post-wildland fire disaster mitigation and recovery, including—

(I) the amount of funding provided under each program;

(II) the effectiveness of each program with respect to long-term forest management and maintenance; and

(III) recommendations to improve the effectiveness of each program, including with respect to—

(aa) the conditions on the use of funds received under the program; and

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(bb) the extent to which additional funds are necessary for the program;

(ii) an evaluation, including recommendations to improve the effectiveness in mitigating wildland fires, which may include authorizing prescribed fires, of—

(I) the Building Resilient Infrastructure and Communities program under section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133);

(II) the Pre-Disaster Mitigation program under that section (42 U.S.C. 5133);

(III) the Hazard Mitigation Grant Program under section 404 of that Act (42 U.S.C. 5170c);

(IV) Hazard Mitigation Grant Program post-fire assistance under sections 404 and 420 of that Act (42 U.S.C. 5170c, 5187); and

(V) such other programs as the Commission determines to be appropriate;

(iii) an assessment of the definition of "small impoverished community" under section 203(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(a)), specifically—

(I) the exclusion of the percentage of land owned by an entity other than a State or unit of local government; and

(II) any related economic impact of that exclusion; and

(iv) recommendations for Federal budgeting for wildland fires and post-wildfire recovery;

(E) any recommendations for matters under subparagraph (A), (B), (C), or (D) specific to—

(i) forest type, vegetation type, or forest and vegetation type; or

(ii) State land, Tribal land, or private land;

(F)(i) a review of the national strategy described in the report entitled "The National Strategy: The Final Phase in the Development of the National Cohesive Wildland Fire Management Strategy" and dated April 2014; and

(ii) any recommendations for changes to that national strategy to improve its effectiveness; and

(G)(i) an evaluation of coordination of response to, and suppression of, wildfires occurring on Federal, Tribal, State, and local land among Federal, Tribal, State, and local agencies with jurisdiction over that land; and

(ii) any recommendations to improve the coordination described in clause (i).

(2) SPECIFIC POLICY RECOMMENDATIONS.—To the maximum extent practicable, the report described in paragraph (1) shall include detailed short- and long-term policy recommendations, including any recommendations for Federal legislation.

(3) INTERIM REPORTS.—Before the submission of the report under paragraph (1), on approval of all members of the Commission, the Commission may submit to the appropriate committees of Congress 1 or more interim reports, as the Commission determines to be appropriate, relating to any matters described in paragraph (1).

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(b) REPORT ON AERIAL WILDLAND FIREFIGHTING EQUIPMENT STRATEGY AND INVENTORY ASSESSMENT.—

(1) SUBMISSION OF INVENTORY TO THE COMMISSION.—Not later than 45 days after the date on which the Commission holds the first meeting of the Commission, the Secretary of Defense and the heads of other relevant Federal departments and agencies shall submit to the Commission an inventory of surplus cargo and passenger aircraft and excess common-use aircraft parts that may be used for wildland firefighting purposes, excluding any aircraft or aircraft parts that are—

(A) reasonably anticipated to be necessary for military operations, readiness, or fleet management in the future; or

(B) already obligated for purposes other than fighting wildland fires.

(2) SUBMISSION OF REPORT TO CONGRESS.—Not later than 90 days after the date on which the Commission receives the inventory described in paragraph (1), the Commission shall submit to the appropriate committees of Congress a report outlining a strategy to meet aerial firefighting equipment needs through 2030 in the most cost-effective manner, including—

(A) an assessment of the expected number of aircraft and aircraft parts needed to fight wildland fires through 2030;

(B) an assessment of existing authorities of the Secretary of Defense and the heads of other relevant Federal departments and agencies to provide or sell surplus aircraft or aircraft parts to Federal, State, or local authorities for wildland firefighting use, including—

(i) a description of the current use of each existing authority; and

(ii) a description of any additional authorities that are needed for the Secretary of Defense and the heads of other relevant Federal departments and agencies to provide or sell surplus aircraft or aircraft parts to Federal, State, or local authorities for wildland firefighting use; and

(C) recommendations to ensure the availability of aircraft and aircraft parts that the Commission expects will be necessary to fight wildland fires through 2030 in the most cost-effective manner.

(3) CONSIDERATIONS FOR ACCESSING AIRCRAFT AND AIRCRAFT PARTS.—In developing the strategy in the report required under paragraph (2) and the recommendations under paragraph (2)(C), the Commission shall consider all private and public sector options for accessing necessary aircraft and aircraft parts, including procurement, contracting, retrofitting, and public-private partnerships.

(4) UNCLASSIFIED REPORT.—The inventory and report submitted under paragraphs (1) and (2), respectively—

(A) shall be unclassified; but

(B) may include a classified annex.

(c) MAJORITY REQUIREMENT.—Not less than ⅔ of the members of the Commission shall approve the recommendations contained in each report submitted under subsection (a) or (b)(2).

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SEC. 70205. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission may secure directly from a Federal department or agency such information as the Commission considers necessary to carry out this title.

(2) FURNISHING INFORMATION.—On request of the Chairpersons of the Commission, the head of the department or agency shall furnish the information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of such gifts or donations of services or property as the Commission considers necessary to carry out this title.

SEC. 70206. COMMISSION PERSONNEL MATTERS.

(a) NO COMPENSATION.—A member of the Commission shall serve without compensation.

(b) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairpersons of the Commission may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties, except that the employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairpersons of the Commission may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—A Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairpersons of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

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SEC. 70207. TERMINATION OF COMMISSION.

The Commission shall terminate on the date that is 180 days after the date on which the Commission has submitted the reports under subsections (a) and (b) of section 70204.

TITLE III—REFORESTATION

SEC. 70301. SHORT TITLE.

This title may be cited as the "Repairing Existing Public Land by Adding Necessary Trees Act" or the "REPLANT Act".

SEC. 70302. REFORESTATION FOLLOWING WILDFIRES AND OTHER UNPLANNED EVENTS.

(a) FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING ACT OF 1974.—

(1) NATIONAL FOREST COVER POLICY.—

(A) IN GENERAL.—Section 3 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1601) is amended—

(i) by redesignating subsection (e) as subsection (f);

(ii) by redesignating the second subsection (d) (relating to the policy of Congress regarding forested land in the National Forest System) as subsection (e); and

(iii) in subsection (e) (as so redesignated)—

(I) in paragraph (2)—

(aa) in the first sentence—

(AA) by striking "9 of this Act, the Secretary shall annually for eight years following the enactment of this subsection" and inserting "9, the Secretary shall, annually during each of the 10 years beginning after the date of enactment of the REPLANT Act"; and

(BB) by striking "eight-year" and inserting "10-year";

(bb) in the second sentence, by striking "such eight-year period" and inserting "the 10-year period"; and

(cc) in the third sentence, by striking "1978" and inserting "2021";

(II) in paragraph (3), in the first sentence, by striking "subsection (d)" and inserting "subsection"; and

(III) by adding at the end the following:

"(4) REFORESTATION REQUIREMENTS.—

"(A) DEFINITIONS.—In this paragraph:

"(i) NATURAL REGENERATION.—

"(I) IN GENERAL.—The term 'natural regeneration' means the establishment of a tree or tree age class from natural seeding, sprouting, or suckering in accordance with the management objectives of an applicable land management plan.

"(II) INCLUSION.—The term 'natural regeneration' may include any site preparation activity to

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enhance the success of regeneration to the desired species composition and structure.

"(ii) PRIORITY LAND.—The term 'priority land' means National Forest System land that, due to an unplanned event—

"(I) does not meet the conditions for appropriate forest cover described in paragraph (1);

"(II) requires reforestation to meet the objectives of an applicable land management plan; and

"(III) is unlikely to experience natural regeneration without assistance.

"(iii) REFORESTATION.—The term 'reforestation' means the act of renewing tree cover, taking into consideration species composition and resilience, by establishing young trees through—

"(I) natural regeneration;

"(II) natural regeneration with site preparation; or

"(III) planting or direct seeding.

"(iv) SECRETARY.—The term 'Secretary' means the Secretary, acting through the Chief of the Forest Service.

"(v) UNPLANNED EVENT.—

"(I) IN GENERAL.—The term 'unplanned event' means any unplanned disturbance that—

"(aa) disrupts ecosystem or forest structure or composition; or

"(bb) changes resources, substrate availability, or the physical environment.

"(II) INCLUSIONS.—The term 'unplanned event' may include—

"(aa) a wildfire;

"(bb) an infestation of insects or disease;

"(cc) a weather event; and

"(dd) animal damage.

"(B) REQUIREMENT.—Each reforestation activity under this section shall be carried out in accordance with applicable Forest Service management practices and definitions, including definitions relating to silvicultural practices and forest management.

"(C) REFORESTATION PRIORITY.—

"(i) IN GENERAL.—In carrying out this subsection, the Secretary shall give priority to projects on the priority list described in clause (ii).

"(ii) PRIORITY LIST.—

"(I) IN GENERAL.—The Secretary shall, based on recommendations from regional foresters, create a priority list of reforestation projects that—

"(aa) primarily take place on priority land;

"(bb) promote effective reforestation following unplanned events; and

"(cc) may include activities to ensure adequate and appropriate seed availability.

"(II) RANKING.—The Secretary shall rank projects on the priority list under subclause (I) based on—

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"(aa) documentation of an effective reforestation project plan;

"(bb) the ability to measure the progress and success of the project; and

"(cc) the ability of a project to provide benefits relating to forest function and health, soil health and productivity, wildlife habitat, improved air and water quality, carbon sequestration potential, resilience, job creation, and enhanced recreational opportunities.".

(B) CONFORMING AMENDMENT.—Section 9 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2105) is amended, in the undesignated matter following paragraph (5) of subsection (g)—

(i) by striking "section 3(d)" and inserting "subsection (e) of section 3"; and

(ii) by striking "1601(d)" and inserting "1601".

(2) NATIONAL FOREST SYSTEM PROGRAM ELEMENTS.—Section 9 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1607) is amended, in the second sentence, by striking "2000" and inserting "2030".

(b) REFORESTATION TRUST FUND.—Section 303 of Public Law 96–451 (16 U.S.C. 1606a) is amended—

(1) in subsection (b)—

(A) by striking paragraph (2);

(B) in paragraph (3)—

(i) in the second sentence, by striking "Proper adjustment" and inserting the following:

"(3) ADJUSTMENT OF ESTIMATES.—Proper adjustment"; and

(ii) by striking "(3) The amounts" and inserting the following:

"(2) FREQUENCY.—The amounts"; and

(C) by striking the subsection designation and all that follows through "the Secretary" in paragraph (1) and inserting the following:

"(b) TRANSFERS TO TRUST FUND.—

"(1) IN GENERAL.—The Secretary"; and

(2) in subsection (d)(1)—

(A) by striking "section 3(d)" and inserting "subsection (e) of section 3"; and

(B) by striking "1601(d)" and inserting "1601".

SEC. 70303. REPORT.

Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary of Agriculture shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives, and make publicly available on the website of the Forest Service, a report that describes, with respect to the preceding year—

(1) an evaluation of the degree to which the Secretary has achieved compliance with the requirements contained in the amendments made by this title, including, as a result of those amendments, the number of acres covered by reforestation projects that follow unplanned events (such as wildfires);

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(2) the total number of acres of land reforested under each authority of the Secretary under which reforestation projects have been carried out;

(3) the number of acres of National Forest System land affected by, and the substance of reforestation needs on that land resulting from, unplanned events; and

(4) the number of acres in need of reforestation under subsection (e)(1) of section 3 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1601).

TITLE IV—RECYCLING PRACTICES

SEC. 70401. BEST PRACTICES FOR BATTERY RECYCLING AND LABELING GUIDELINES.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) BATTERY.—The term "battery" means a device that—

(A) consists of 1 or more electrochemical cells that are electrically connected; and

(B) is designed to store and deliver electric energy.

(3) RECYCLING.—The term "recycling" means the series of activities—

(A) during which recyclable materials are processed into specification-grade commodities, and consumed as raw-material feedstock, in lieu of virgin materials, in the manufacturing of new products;

(B) that may include collection, processing, and brokering; and

(C) that result in subsequent consumption by a materials manufacturer, including for the manufacturing of new products.

(b) BEST PRACTICES FOR COLLECTION OF BATTERIES TO BE RECYCLED.—

(1) IN GENERAL.—The Administrator shall develop best practices that may be implemented by State, Tribal, and local governments with respect to the collection of batteries to be recycled in a manner that—

(A) to the maximum extent practicable, is technically and economically feasible for State, Tribal, and local governments;

(B) is environmentally sound and safe for waste management workers; and

(C) optimizes the value and use of material derived from recycling of batteries.

(2) CONSULTATION.—The Administrator shall develop the best practices described in paragraph (1) in coordination with State, Tribal, and local governments and relevant nongovernmental and private sector entities.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Administrator shall submit to Congress a report describing the best practices developed under paragraph (1).

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this

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subsection $10,000,000 for fiscal year 2022, to remain available until September 30, 2026.

(c) VOLUNTARY LABELING GUIDELINES.—

(1) IN GENERAL.—There is established within the Environmental Protection Agency a program (referred to in this subsection as the "program") to promote battery recycling through the development of—

(A) voluntary labeling guidelines for batteries; and

(B) other forms of communication materials for battery producers and consumers about the reuse and recycling of critical materials from batteries.

(2) PURPOSES.—The purposes of the program are to improve battery collection and reduce battery waste, including by—

(A) identifying battery collection locations and increasing accessibility to those locations;

(B) promoting consumer education about battery collection and recycling; and

(C) reducing safety concerns relating to the improper disposal of batteries.

(3) OTHER STANDARDS AND LAW.—The Administrator shall make every reasonable effort to ensure that voluntary labeling guidelines and other forms of communication materials developed under the program are consistent with—

(A) international battery labeling standards; and

(B) the Mercury-Containing and Rechargeable Battery Management Act (42 U.S.C. 14301 et seq.).

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this subsection $15,000,000 for fiscal year 2022, to remain available until September 30, 2026.

SEC. 70402. CONSUMER RECYCLING EDUCATION AND OUTREACH GRANT PROGRAM; FEDERAL PROCUREMENT.

(a) DEFINITION OF ADMINISTRATOR.—In this section, the term "Administrator" means the Administrator of the Environmental Protection Agency.

(b) CONSUMER RECYCLING EDUCATION AND OUTREACH GRANT PROGRAM.—

(1) IN GENERAL.—The Administrator shall establish a program (referred to in this subsection as the "grant program") to award competitive grants to eligible entities to improve the effectiveness of residential and community recycling programs through public education and outreach.

(2) CRITERIA.—The Administrator shall award grants under the grant program for projects that, by using one or more eligible activities described in paragraph (5)—

(A) inform the public about residential or community recycling programs;

(B) provide information about the recycled materials that are accepted as part of a residential or community recycling program that provides for the separate collection of residential solid waste from recycled material; and

(C) increase collection rates and decrease contamination in residential and community recycling programs.

(3) ELIGIBLE ENTITIES.—

(A) IN GENERAL.—An entity that is eligible to receive a grant under the grant program is—

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(i) a State;
(ii) a unit of local government;
(iii) an Indian Tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304));
(iv) a Native Hawaiian organization (as defined in section 6207 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7517));
(v) the Department of Hawaiian Home Lands;
(vi) the Office of Hawaiian Affairs;
(vii) a nonprofit organization; or
(viii) a public-private partnership.

(B) COORDINATION OF ACTIVITIES.—2 or more entities described in subparagraph (A) may receive a grant under the grant program to coordinate the provision of information to residents that may access 2 or more residential recycling programs, including programs that accept different recycled materials, to provide to the residents information regarding differences among those residential recycling programs.

(4) REQUIREMENT.—

(A) IN GENERAL.—To receive a grant under the grant program, an eligible entity shall demonstrate to the Administrator that the grant funds will be used to encourage the collection of recycled materials that are sold to an existing or developing market.

(B) BUSINESS PLANS AND FINANCIAL DATA.—

(i) IN GENERAL.—An eligible entity may make a demonstration under subparagraph (A) through the submission to the Administrator of appropriate business plans and financial data.

(ii) CONFIDENTIALITY.—The Administrator shall treat any business plans or financial data received under clause (i) as confidential information.

(5) ELIGIBLE ACTIVITIES.—An eligible entity that receives a grant under the grant program may use the grant funds for activities including—

(A) public service announcements;
(B) a door-to-door education and outreach campaign;
(C) social media and digital outreach;
(D) an advertising campaign on recycling awareness;
(E) the development and dissemination of—

(i) a toolkit for a municipal and commercial recycling program;

(ii) information on the importance of quality in the recycling stream;

(iii) information on the economic and environmental benefits of recycling; and

(iv) information on what happens to materials after the materials are placed into a residential or community recycling program;

(F) businesses recycling outreach;
(G) bin, cart, and other receptacle labeling and signs; and

(H) such other activities that the Administrator determines are appropriate to carry out the purposes of this subsection.

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(6) PROHIBITION ON USE OF FUNDS.—No funds may be awarded under the grant program for a residential recycling program that—

(A) does not provide for the separate collection of residential solid waste (as defined in section 246.101 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act)) from recycled material (as defined in that section), unless the funds are used to promote a transition to a system that separately collects recycled materials; or

(B) promotes the establishment of, or conversion to, a residential collection system that does not provide for the separate collection of residential solid waste from recycled material (as those terms are defined under subparagraph (A)).

(7) MODEL RECYCLING PROGRAM TOOLKIT.—

(A) IN GENERAL.—In carrying out the grant program, the Administrator, in consultation with other relevant Federal agencies, States, Indian Tribes, units of local government, nonprofit organizations, and the private sector, shall develop a model recycling program toolkit for States, Indian Tribes, and units of local government that includes, at a minimum—

(i) a standardized set of terms and examples that may be used to describe materials that are accepted by a residential recycling program;

(ii) information that the Administrator determines can be widely applied across residential recycling programs, taking into consideration the differences in recycled materials accepted by residential recycling programs;

(iii) educational principles on best practices for the collection and processing of recycled materials;

(iv) a community self-assessment guide to identify gaps in existing recycling programs;

(v) training modules that enable States and nonprofit organizations to provide technical assistance to units of local government;

(vi) access to consumer educational materials that States, Indian Tribes, and units of local government can adapt and use in recycling programs; and

(vii) a guide to measure the effectiveness of a grant received under the grant program, including standardized measurements for recycling rates and decreases in contamination.

(B) REQUIREMENT.—In developing the standardized set of terms and examples under subparagraph (A)(i), the Administrator may not establish any requirements for—

(i) what materials shall be accepted by a residential recycling program; or

(ii) the labeling of products.

(8) SCHOOL CURRICULUM.—The Administrator shall provide assistance to the educational community, including nonprofit organizations, such as an organization the science, technology, engineering, and mathematics program of which incorporates recycling, to promote the introduction of recycling principles and best practices into public school curricula.

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(9) REPORTS.—

(A) TO THE ADMINISTRATOR.—Not earlier than 180 days, and not later than 2 years, after the date on which a grant under the grant program is awarded to an eligible entity, the eligible entity shall submit to the Administrator a report describing, by using the guide developed under paragraph (7)(A)(vii)—

(i) the change in volume of recycled material collected through the activities funded with the grant;

(ii) the change in participation rate of the recycling program funded with the grant;

(iii) the reduction of contamination in the recycling stream as a result of the activities funded with the grant; and

(iv) such other information as the Administrator determines to be appropriate.

(B) TO CONGRESS.—The Administrator shall submit to Congress an annual report describing—

(i) the effectiveness of residential recycling programs awarded funds under the grant program, including statistics comparing the quantity and quality of recycled materials collected by those programs, as described in the reports submitted to the Administrator under subparagraph (A); and

(ii) recommendations on additional actions to improve residential recycling.

(c) FEDERAL PROCUREMENT.—Section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962) is amended—

(1) in subsection (e), in the matter preceding paragraph (1), by striking "and from time to time, revise" and inserting "review not less frequently than once every 5 years, and, if appropriate, revise, in consultation with recyclers and manufacturers of products containing recycled content, not later than 2 years after the completion of the initial review after the date of enactment of the Infrastructure Investment and Jobs Act and thereafter, as appropriate"; and

(2) by adding at the end the following:

"(j) CONSULTATION AND PROVISION OF INFORMATION BY ADMINISTRATOR.—The Administrator shall—

"(1) consult with each procuring agency, including contractors of the procuring agency, to clarify the responsibilities of the procuring agency under this section; and

"(2) provide to each procuring agency information on the requirements under this section and the responsibilities of the procuring agency under this section.

"(k) REPORTS.—The Administrator, in consultation with the Administrator of General Services, shall submit to Congress an annual report describing—

"(1) the quantity of federally procured recycled products listed in the guidelines under subsection (e); and

"(2) with respect to the products described in paragraph (1), the percentage of recycled material in each product.".

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Administrator to carry out this section and the amendments made by this section $15,000,000 for each of fiscal years 2022 through 2026.

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(2) REQUIREMENT.—Of the amount made available under paragraph (1) for a fiscal year, not less than 20 percent shall be allocated to—

(A) low-income communities;

(B) rural communities; and

(C) communities identified as Native American pursuant to section 2(9) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001(9)).

TITLE V—BIOPRODUCT PILOT PROGRAM

SEC. 70501. PILOT PROGRAM ON USE OF AGRICULTURAL COMMODITIES IN CONSTRUCTION AND CONSUMER PRODUCTS.

(a) DEFINITIONS.—In this section:

(1) CONSTRUCTION PRODUCT.—The term "construction product" means any article, or component part thereof, produced or distributed for use during the construction, maintenance, or preservation of a highway, road, street, bridge, building, dam, port, or airport construction project.

(2) CONSUMER PRODUCT.—The term "consumer product" means—

(A) any article, or component part thereof, produced or distributed—

(i) for sale to a consumer for use in or around a permanent or temporary household or residence, a school, in recreation, or otherwise; or

(ii) for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation, or otherwise; and

(B) any product or product category described in subparagraphs (A) through (I) of section 3(a)(5) of the Consumer Product Safety Act (15 U.S.C. 2052(a)(5)).

(3) COVERED AGRICULTURAL COMMODITY.—The term "covered agricultural commodity" means any agricultural commodity, food, feed, fiber, livestock, oil, or a derivative thereof, that the Secretary determines to have been used in the production of materials that have demonstrated market viability and benefits (as described in paragraphs (1) through (7) of subsection (b)) as of the date of enactment of this Act.

(4) QUALIFIED INSTITUTION.—The term "qualified institution" means a bioproducts research facility that—

(A) is funded, in part, by a State;

(B) is located within a reasonable distance, not to exceed 3 miles, of the primary residence hall of an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)));

(C) provides students opportunities to engage in research activities; and

(D) provides opportunities for an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) to collaborate with private enterprise.

(5) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

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(b) ESTABLISHMENT.—The Secretary shall carry out a pilot program under which the Secretary shall partner with not less than 1 qualified institution to study the benefits of using materials derived from covered agricultural commodities in the production of construction products and consumer products, including—

(1) cost savings relative to other commonly used alternative materials;

(2) greenhouse gas emission reductions and other environmental benefits relative to other commonly used alternative materials;

(3) life-cycle and longevity-extending characteristics relative to other commonly used alternative materials;

(4) life-cycle and longevity-reducing characteristics relative to other commonly used alternative materials;

(5) landfill quantity and waste management cost reductions;

(6) product development and production scale-up; and

(7) any other benefits that the Secretary determines to be appropriate.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $2,000,000 for each of fiscal years 2022 through 2023.

TITLE VI—CYBERSECURITY

Subtitle A—Cyber Response and Recovery Act

SEC. 70601. SHORT TITLE.

This subtitle may be cited as the "Cyber Response and Recovery Act".

SEC. 70602. DECLARATION OF A SIGNIFICANT INCIDENT.

(a) IN GENERAL.—Title XXII of the Homeland Security Act of 2002 (6 U.S.C. 651 et seq.) is amended by adding at the end the following:

"Subtitle C—Declaration of a Significant Incident

"SEC. 2231. SENSE OF CONGRESS.

"It is the sense of Congress that—

"(1) the purpose of this subtitle is to authorize the Secretary to declare that a significant incident has occurred and to establish the authorities that are provided under the declaration to respond to and recover from the significant incident; and

"(2) the authorities established under this subtitle are intended to enable the Secretary to provide voluntary assistance to non-Federal entities impacted by a significant incident.

"SEC. 2232. DEFINITIONS.

"For the purposes of this subtitle:

"(1) ASSET RESPONSE ACTIVITY.—The term 'asset response activity' means an activity to support an entity impacted by

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an incident with the response to, remediation of, or recovery from, the incident, including—

"(A) furnishing technical and advisory assistance to the entity to protect the assets of the entity, mitigate vulnerabilities, and reduce the related impacts;

"(B) assessing potential risks to the critical infrastructure sector or geographic region impacted by the incident, including potential cascading effects of the incident on other critical infrastructure sectors or geographic regions;

"(C) developing courses of action to mitigate the risks assessed under subparagraph (B);

"(D) facilitating information sharing and operational coordination with entities performing threat response activities; and

"(E) providing guidance on how best to use Federal resources and capabilities in a timely, effective manner to speed recovery from the incident.

"(2) DECLARATION.—The term 'declaration' means a declaration of the Secretary under section 2233(a)(1).

"(3) DIRECTOR.—The term 'Director' means the Director of the Cybersecurity and Infrastructure Security Agency.

"(4) FEDERAL AGENCY.—The term 'Federal agency' has the meaning given the term 'agency' in section 3502 of title 44, United States Code.

"(5) FUND.—The term 'Fund' means the Cyber Response and Recovery Fund established under section 2234(a).

"(6) INCIDENT.—The term 'incident' has the meaning given the term in section 3552 of title 44, United States Code.

"(7) RENEWAL.—The term 'renewal' means a renewal of a declaration under section 2233(d).

"(8) SIGNIFICANT INCIDENT.—The term 'significant incident'—

"(A) means an incident or a group of related incidents that results, or is likely to result, in demonstrable harm to—

"(i) the national security interests, foreign relations, or economy of the United States; or

"(ii) the public confidence, civil liberties, or public health and safety of the people of the United States; and

"(B) does not include an incident or a portion of a group of related incidents that occurs on—

"(i) a national security system (as defined in section 3552 of title 44, United States Code); or

"(ii) an information system described in paragraph (2) or (3) of section 3553(e) of title 44, United States Code.

"SEC. 2233. DECLARATION.

"(a) IN GENERAL.—

"(1) DECLARATION.—The Secretary, in consultation with the National Cyber Director, may make a declaration of a significant incident in accordance with this section for the purpose of enabling the activities described in this subtitle if the Secretary determines that—

"(A) a specific significant incident—

"(i) has occurred; or

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"(ii) is likely to occur imminently; and

"(B) otherwise available resources, other than the Fund, are likely insufficient to respond effectively to, or to mitigate effectively, the specific significant incident described in subparagraph (A).

"(2) PROHIBITION ON DELEGATION.—The Secretary may not delegate the authority provided to the Secretary under paragraph (1).

"(b) ASSET RESPONSE ACTIVITIES.—Upon a declaration, the Director shall coordinate—

"(1) the asset response activities of each Federal agency in response to the specific significant incident associated with the declaration; and

"(2) with appropriate entities, which may include—

"(A) public and private entities and State and local governments with respect to the asset response activities of those entities and governments; and

"(B) Federal, State, local, and Tribal law enforcement agencies with respect to investigations and threat response activities of those law enforcement agencies; and

"(3) Federal, State, local, and Tribal emergency management and response agencies.

"(c) DURATION.—Subject to subsection (d), a declaration shall terminate upon the earlier of—

"(1) a determination by the Secretary that the declaration is no longer necessary; or

"(2) the expiration of the 120-day period beginning on the date on which the Secretary makes the declaration.

"(d) RENEWAL.—The Secretary, without delegation, may renew a declaration as necessary.

"(e) PUBLICATION.—

"(1) IN GENERAL.—Not later than 72 hours after a declaration or a renewal, the Secretary shall publish the declaration or renewal in the Federal Register.

"(2) PROHIBITION.—A declaration or renewal published under paragraph (1) may not include the name of any affected individual or private company.

"(f) ADVANCE ACTIONS.—

"(1) IN GENERAL.—The Secretary—

"(A) shall assess the resources available to respond to a potential declaration; and

"(B) may take actions before and while a declaration is in effect to arrange or procure additional resources for asset response activities or technical assistance the Secretary determines necessary, which may include entering into standby contracts with private entities for cybersecurity services or incident responders in the event of a declaration.

"(2) EXPENDITURE OF FUNDS.—Any expenditure from the Fund for the purpose of paragraph (1)(B) shall be made from amounts available in the Fund, and amounts available in the Fund shall be in addition to any other appropriations available to the Cybersecurity and Infrastructure Security Agency for such purpose.

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"SEC. 2234. CYBER RESPONSE AND RECOVERY FUND.

"(a) IN GENERAL.—There is established a Cyber Response and Recovery Fund, which shall be available for—

"(1) the coordination of activities described in section 2233(b);

"(2) response and recovery support for the specific significant incident associated with a declaration to Federal, State, local, and Tribal, entities and public and private entities on a reimbursable or non-reimbursable basis, including through asset response activities and technical assistance, such as—

"(A) vulnerability assessments and mitigation;

"(B) technical incident mitigation;

"(C) malware analysis;

"(D) analytic support;

"(E) threat detection and hunting; and

"(F) network protections;

"(3) as the Director determines appropriate, grants for, or cooperative agreements with, Federal, State, local, and Tribal public and private entities to respond to, and recover from, the specific significant incident associated with a declaration, such as—

"(A) hardware or software to replace, update, improve, harden, or enhance the functionality of existing hardware, software, or systems; and

"(B) technical contract personnel support; and

"(4) advance actions taken by the Secretary under section 2233(f)(1)(B).

"(b) DEPOSITS AND EXPENDITURES.—

"(1) IN GENERAL.—Amounts shall be deposited into the Fund from—

"(A) appropriations to the Fund for activities of the Fund; and

"(B) reimbursement from Federal agencies for the activities described in paragraphs (1), (2), and (4) of subsection (a), which shall only be from amounts made available in advance in appropriations Acts for such reimbursement.

"(2) EXPENDITURES.—Any expenditure from the Fund for the purposes of this subtitle shall be made from amounts available in the Fund from a deposit described in paragraph (1), and amounts available in the Fund shall be in addition to any other appropriations available to the Cybersecurity and Infrastructure Security Agency for such purposes.

"(c) SUPPLEMENT NOT SUPPLANT.—Amounts in the Fund shall be used to supplement, not supplant, other Federal, State, local, or Tribal funding for activities in response to a declaration.

"(d) REPORTING.—The Secretary shall require an entity that receives amounts from the Fund to submit a report to the Secretary that details the specific use of the amounts.

"SEC. 2235. NOTIFICATION AND REPORTING.

"(a) NOTIFICATION.—Upon a declaration or renewal, the Secretary shall immediately notify the National Cyber Director and appropriate congressional committees and include in the notification—

"(1) an estimation of the planned duration of the declaration;

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"(2) with respect to a notification of a declaration, the reason for the declaration, including information relating to the specific significant incident or imminent specific significant incident, including—

"(A) the operational or mission impact or anticipated impact of the specific significant incident on Federal and non-Federal entities;

"(B) if known, the perpetrator of the specific significant incident; and

"(C) the scope of the Federal and non-Federal entities impacted or anticipated to be impacted by the specific significant incident;

"(3) with respect to a notification of a renewal, the reason for the renewal;

"(4) justification as to why available resources, other than the Fund, are insufficient to respond to or mitigate the specific significant incident; and

"(5) a description of the coordination activities described in section 2233(b) that the Secretary anticipates the Director to perform.

"(b) REPORT TO CONGRESS.—Not later than 180 days after the date of a declaration or renewal, the Secretary shall submit to the appropriate congressional committees a report that includes—

"(1) the reason for the declaration or renewal, including information and intelligence relating to the specific significant incident that led to the declaration or renewal;

"(2) the use of any funds from the Fund for the purpose of responding to the incident or threat described in paragraph (1);

"(3) a description of the actions, initiatives, and projects undertaken by the Department and State and local governments and public and private entities in responding to and recovering from the specific significant incident described in paragraph (1);

"(4) an accounting of the specific obligations and outlays of the Fund; and

"(5) an analysis of—

"(A) the impact of the specific significant incident described in paragraph (1) on Federal and non-Federal entities;

"(B) the impact of the declaration or renewal on the response to, and recovery from, the specific significant incident described in paragraph (1); and

"(C) the impact of the funds made available from the Fund as a result of the declaration or renewal on the recovery from, and response to, the specific significant incident described in paragraph (1).

"(c) CLASSIFICATION.—Each notification made under subsection (a) and each report submitted under subsection (b)—

"(1) shall be in an unclassified form with appropriate markings to indicate information that is exempt from disclosure under section 552 of title 5, United States Code (commonly known as the 'Freedom of Information Act'); and

"(2) may include a classified annex.

"(d) CONSOLIDATED REPORT.—The Secretary shall not be required to submit multiple reports under subsection (b) for multiple

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declarations or renewals if the Secretary determines that the declarations or renewals substantively relate to the same specific significant incident.

"(e) EXEMPTION.—The requirements of subchapter I of chapter 35 of title 44 (commonly known as the 'Paperwork Reduction Act') shall not apply to the voluntary collection of information by the Department during an investigation of, a response to, or an immediate post-response review of, the specific significant incident leading to a declaration or renewal.

"SEC. 2236. RULE OF CONSTRUCTION.

"Nothing in this subtitle shall be construed to impair or limit the ability of the Director to carry out the authorized activities of the Cybersecurity and Infrastructure Security Agency.

"SEC. 2237. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Fund $20,000,000 for fiscal year 2022 and each fiscal year thereafter until September 30, 2028, which shall remain available until September 30, 2028.

"SEC. 2238. SUNSET.

"The authorities granted to the Secretary or the Director under this subtitle shall expire on the date that is 7 years after the date of enactment of this subtitle.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2135) is amended by adding at the end the following:

"Subtitle C—Declaration of a Significant Incident

"Sec. 2231. Sense of congress.
"Sec. 2232. Definitions.
"Sec. 2233. Declaration.
"Sec. 2234. Cyber response and recovery fund.
"Sec. 2235. Notification and reporting.
"Sec. 2236. Rule of construction.
"Sec. 2237. Authorization of appropriations.
"Sec. 2238. Sunset.".

Subtitle B—State and Local Cybersecurity Improvement Act

SEC. 70611. SHORT TITLE.

This subtitle may be cited as the "State and Local Cybersecurity Improvement Act".

SEC. 70612. STATE AND LOCAL CYBERSECURITY GRANT PROGRAM.

(a) IN GENERAL.—Subtitle A of title XXII of the Homeland Security Act of 2002 (6 U.S.C. 651 et seq.) is amended by adding at the end the following:

"SEC. 2218. STATE AND LOCAL CYBERSECURITY GRANT PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term 'appropriate committees of Congress' means—

"(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

"(B) the Committee on Homeland Security of the House of Representatives.

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"(2) CYBER THREAT INDICATOR.—The term 'cyber threat indicator' has the meaning given the term in section 102 of the Cybersecurity Act of 2015 (6 U.S.C. 1501).

"(3) CYBERSECURITY PLAN.—The term 'Cybersecurity Plan' means a plan submitted by an eligible entity under subsection (e)(1).

"(4) ELIGIBLE ENTITY.—The term 'eligible entity' means a—

"(A) State; or

"(B) Tribal government.

"(5) INCIDENT.—The term 'incident' has the meaning given the term in section 2209.

"(6) INFORMATION SHARING AND ANALYSIS ORGANIZATION.—The term 'information sharing and analysis organization' has the meaning given the term in section 2222.

"(7) INFORMATION SYSTEM.—The term 'information system' has the meaning given the term in section 102 of the Cybersecurity Act of 2015 (6 U.S.C. 1501).

"(8) MULTI-ENTITY GROUP.—The term 'multi-entity group' means a group of 2 or more eligible entities desiring a grant under this section.

"(9) ONLINE SERVICE.—The term 'online service' means any internet-facing service, including a website, email, virtual private network, or custom application.

"(10) RURAL AREA.—The term 'rural area' has the meaning given the term in section 5302 of title 49, United States Code.

"(11) STATE AND LOCAL CYBERSECURITY GRANT PROGRAM.—The term 'State and Local Cybersecurity Grant Program' means the program established under subsection (b).

"(12) TRIBAL GOVERNMENT.—The term 'Tribal government' means the recognized governing body of any Indian or Alaska Native Tribe, band, nation, pueblo, village, community, component band, or component reservation, that is individually identified (including parenthetically) in the most recent list published pursuant to Section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).

"(b) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established within the Department a program to award grants to eligible entities to address cybersecurity risks and cybersecurity threats to information systems owned or operated by, or on behalf of, State, local, or Tribal governments.

"(2) APPLICATION.—An eligible entity desiring a grant under the State and Local Cybersecurity Grant Program shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(c) ADMINISTRATION.—The State and Local Cybersecurity Grant Program shall be administered in the same office of the Department that administers grants made under sections 2003 and 2004.

"(d) USE OF FUNDS.—An eligible entity that receives a grant under this section and a local government that receives funds from a grant under this section, as appropriate, shall use the grant to—

"(1) implement the Cybersecurity Plan of the eligible entity;

"(2) develop or revise the Cybersecurity Plan of the eligible entity;

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"(3) pay expenses directly relating to the administration of the grant, which shall not exceed 5 percent of the amount of the grant;

"(4) assist with activities that address imminent cybersecurity threats, as confirmed by the Secretary, acting through the Director, to the information systems owned or operated by, or on behalf of, the eligible entity or a local government within the jurisdiction of the eligible entity; or

"(5) fund any other appropriate activity determined by the Secretary, acting through the Director.

"(e) CYBERSECURITY PLANS.—

"(1) IN GENERAL.—An eligible entity applying for a grant under this section shall submit to the Secretary a Cybersecurity Plan for review in accordance with subsection (i).

"(2) REQUIRED ELEMENTS.—A Cybersecurity Plan of an eligible entity shall—

"(A) incorporate, to the extent practicable—

"(i) any existing plans of the eligible entity to protect against cybersecurity risks and cybersecurity threats to information systems owned or operated by, or on behalf of, State, local, or Tribal governments; and

"(ii) if the eligible entity is a State, consultation and feedback from local governments and associations of local governments within the jurisdiction of the eligible entity;

"(B) describe, to the extent practicable, how the eligible entity will—

"(i) manage, monitor, and track information systems, applications, and user accounts owned or operated by, or on behalf of, the eligible entity or, if the eligible entity is a State, local governments within the jurisdiction of the eligible entity, and the information technology deployed on those information systems, including legacy information systems and information technology that are no longer supported by the manufacturer of the systems or technology;

"(ii) monitor, audit, and, track network traffic and activity transiting or traveling to or from information systems, applications, and user accounts owned or operated by, or on behalf of, the eligible entity or, if the eligible entity is a State, local governments within the jurisdiction of the eligible entity;

"(iii) enhance the preparation, response, and resiliency of information systems, applications, and user accounts owned or operated by, or on behalf of, the eligible entity or, if the eligible entity is a State, local governments within the jurisdiction of the eligible entity, against cybersecurity risks and cybersecurity threats;

"(iv) implement a process of continuous cybersecurity vulnerability assessments and threat mitigation practices prioritized by degree of risk to address cybersecurity risks and cybersecurity threats on information systems, applications, and user accounts owned or operated by, or on behalf of, the eligible entity or,

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if the eligible entity is a State, local governments within the jurisdiction of the eligible entity;

"(v) ensure that the eligible entity and, if the eligible entity is a State, local governments within the jurisdiction of the eligible entity, adopt and use best practices and methodologies to enhance cybersecurity, such as—

"(I) the practices set forth in the cybersecurity framework developed by the National Institute of Standards and Technology;

"(II) cyber chain supply chain risk management best practices identified by the National Institute of Standards and Technology; and

"(III) knowledge bases of adversary tools and tactics;

"(vi) promote the delivery of safe, recognizable, and trustworthy online services by the eligible entity and, if the eligible entity is a State, local governments within the jurisdiction of the eligible entity, including through the use of the .gov internet domain;

"(vii) ensure continuity of operations of the eligible entity and, if the eligible entity is a State, local governments within the jurisdiction of the eligible entity, in the event of a cybersecurity incident, including by conducting exercises to practice responding to a cybersecurity incident;

"(viii) use the National Initiative for Cybersecurity Education Workforce Framework for Cybersecurity developed by the National Institute of Standards and Technology to identify and mitigate any gaps in the cybersecurity workforces of the eligible entity and, if the eligible entity is a State, local governments within the jurisdiction of the eligible entity, enhance recruitment and retention efforts for those workforces, and bolster the knowledge, skills, and abilities of personnel of the eligible entity and, if the eligible entity is a State, local governments within the jurisdiction of the eligible entity, to address cybersecurity risks and cybersecurity threats, such as through cybersecurity hygiene training;

"(ix) if the eligible entity is a State, ensure continuity of communications and data networks within the jurisdiction of the eligible entity between the eligible entity and local governments within the jurisdiction of the eligible entity in the event of an incident involving those communications or data networks;

"(x) assess and mitigate, to the greatest degree possible, cybersecurity risks and cybersecurity threats relating to critical infrastructure and key resources, the degradation of which may impact the performance of information systems within the jurisdiction of the eligible entity;

"(xi) enhance capabilities to share cyber threat indicators and related information between the eligible entity and—

"(I) if the eligible entity is a State, local governments within the jurisdiction of the eligible

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entity, including by expanding information sharing agreements with the Department; and

"(II) the Department;

"(xii) leverage cybersecurity services offered by the Department;

"(xiii) implement an information technology and operational technology modernization cybersecurity review process that ensures alignment between information technology and operational technology cybersecurity objectives;

"(xiv) develop and coordinate strategies to address cybersecurity risks and cybersecurity threats in consultation with—

"(I) if the eligible entity is a State, local governments and associations of local governments within the jurisdiction of the eligible entity; and

"(II) as applicable—

"(aa) eligible entities that neighbor the jurisdiction of the eligible entity or, as appropriate, members of an information sharing and analysis organization; and

"(bb) countries that neighbor the jurisdiction of the eligible entity;

"(xv) ensure adequate access to, and participation in, the services and programs described in this subparagraph by rural areas within the jurisdiction of the eligible entity; and

"(xvi) distribute funds, items, services, capabilities, or activities to local governments under subsection (n)(2)(A), including the fraction of that distribution the eligible entity plans to distribute to rural areas under subsection (n)(2)(B);

"(C) assess the capabilities of the eligible entity relating to the actions described in subparagraph (B);

"(D) describe, as appropriate and to the extent practicable, the individual responsibilities of the eligible entity and local governments within the jurisdiction of the eligible entity in implementing the plan;

"(E) outline, to the extent practicable, the necessary resources and a timeline for implementing the plan; and

"(F) describe the metrics the eligible entity will use to measure progress towards—

"(i) implementing the plan; and

"(ii) reducing cybersecurity risks to, and identifying, responding to, and recovering from cybersecurity threats to, information systems owned or operated by, or on behalf of, the eligible entity or, if the eligible entity is a State, local governments within the jurisdiction of the eligible entity.

"(3) DISCRETIONARY ELEMENTS.—In drafting a Cybersecurity Plan, an eligible entity may—

"(A) consult with the Multi-State Information Sharing and Analysis Center;

"(B) include a description of cooperative programs developed by groups of local governments within the jurisdiction of the eligible entity to address cybersecurity risks and cybersecurity threats; and

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"(C) include a description of programs provided by the eligible entity to support local governments and owners and operators of critical infrastructure to address cybersecurity risks and cybersecurity threats.

"(f) MULTI-ENTITY GRANTS.—

"(1) IN GENERAL.—The Secretary may award grants under this section to a multi-entity group to support multi-entity efforts to address cybersecurity risks and cybersecurity threats to information systems within the jurisdictions of the eligible entities that comprise the multi-entity group.

"(2) SATISFACTION OF OTHER REQUIREMENTS.—In order to be eligible for a multi-entity grant under this subsection, each eligible entity that comprises a multi-entity group shall have—

"(A) a Cybersecurity Plan that has been reviewed by the Secretary in accordance with subsection (i); and

"(B) a cybersecurity planning committee established in accordance with subsection (g).

"(3) APPLICATION.—

"(A) IN GENERAL.—A multi-entity group applying for a multi-entity grant under paragraph (1) shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(B) MULTI-ENTITY PROJECT PLAN.—An application for a grant under this section of a multi-entity group under subparagraph (A) shall include a plan describing—

"(i) the division of responsibilities among the eligible entities that comprise the multi-entity group;

"(ii) the distribution of funding from the grant among the eligible entities that comprise the multi-entity group; and

"(iii) how the eligible entities that comprise the multi-entity group will work together to implement the Cybersecurity Plan of each of those eligible entities.

"(g) PLANNING COMMITTEES.—

"(1) IN GENERAL.—An eligible entity that receives a grant under this section shall establish a cybersecurity planning committee to—

"(A) assist with the development, implementation, and revision of the Cybersecurity Plan of the eligible entity;

"(B) approve the Cybersecurity Plan of the eligible entity; and

"(C) assist with the determination of effective funding priorities for a grant under this section in accordance with subsections (d) and (j).

"(2) COMPOSITION.—A committee of an eligible entity established under paragraph (1) shall—

"(A) be comprised of representatives from—

"(i) the eligible entity;

"(ii) if the eligible entity is a State, counties, cities, and towns within the jurisdiction of the eligible entity; and

"(iii) institutions of public education and health within the jurisdiction of the eligible entity; and

"(B) include, as appropriate, representatives of rural, suburban, and high-population jurisdictions.

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"(3) CYBERSECURITY EXPERTISE.—Not less than one-half of the representatives of a committee established under paragraph (1) shall have professional experience relating to cybersecurity or information technology.

"(4) RULE OF CONSTRUCTION REGARDING EXISTING PLANNING COMMITTEES.—Nothing in this subsection shall be construed to require an eligible entity to establish a cybersecurity planning committee if the eligible entity has established and uses a multijurisdictional planning committee or commission that—

"(A) meets the requirements of this subsection; or

"(B) may be expanded or leveraged to meet the requirements of this subsection, including through the formation of a cybersecurity planning subcommittee.

"(5) RULE OF CONSTRUCTION REGARDING CONTROL OF INFORMATION SYSTEMS OF ELIGIBLE ENTITIES.—Nothing in this subsection shall be construed to permit a cybersecurity planning committee of an eligible entity that meets the requirements of this subsection to make decisions relating to information systems owned or operated by, or on behalf of, the eligible entity.

"(h) SPECIAL RULE FOR TRIBAL GOVERNMENTS.—With respect to any requirement under subsection (e) or (g), the Secretary, in consultation with the Secretary of the Interior and Tribal governments, may prescribe an alternative substantively similar requirement for Tribal governments if the Secretary finds that the alternative requirement is necessary for the effective delivery and administration of grants to Tribal governments under this section.

"(i) REVIEW OF PLANS.—

"(1) REVIEW AS CONDITION OF GRANT.—

"(A) IN GENERAL.—Subject to paragraph (3), before an eligible entity may receive a grant under this section, the Secretary, acting through the Director, shall—

"(i) review the Cybersecurity Plan of the eligible entity, including any revised Cybersecurity Plans of the eligible entity; and

"(ii) determine that the Cybersecurity Plan reviewed under clause (i) satisfies the requirements under paragraph (2).

"(B) DURATION OF DETERMINATION.—In the case of a determination under subparagraph (A)(ii) that a Cybersecurity Plan satisfies the requirements under paragraph (2), the determination shall be effective for the 2-year period beginning on the date of the determination.

"(C) ANNUAL RENEWAL.—Not later than 2 years after the date on which the Secretary determines under subparagraph (A)(ii) that a Cybersecurity Plan satisfies the requirements under paragraph (2), and annually thereafter, the Secretary, acting through the Director, shall—

"(i) determine whether the Cybersecurity Plan and any revisions continue to meet the criteria described in paragraph (2); and

"(ii) renew the determination if the Secretary, acting through the Director, makes a positive determination under clause (i).

"(2) PLAN REQUIREMENTS.—In reviewing a Cybersecurity Plan of an eligible entity under this subsection, the Secretary,

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acting through the Director, shall ensure that the Cybersecurity Plan—

"(A) satisfies the requirements of subsection (e)(2); and

"(B) has been approved by—

"(i) the cybersecurity planning committee of the eligible entity established under subsection (g); and

"(ii) the Chief Information Officer, the Chief Information Security Officer, or an equivalent official of the eligible entity.

"(3) EXCEPTION.—Notwithstanding subsection (e) and paragraph (1) of this subsection, the Secretary may award a grant under this section to an eligible entity that does not submit a Cybersecurity Plan to the Secretary for review before September 30, 2023, if the eligible entity certifies to the Secretary that—

"(A) the activities that will be supported by the grant are—

"(i) integral to the development of the Cybersecurity Plan of the eligible entity; or

"(ii) necessary to assist with activities described in subsection (d)(4), as confirmed by the Director; and

"(B) the eligible entity will submit to the Secretary a Cybersecurity Plan for review under this subsection by September 30, 2023.

"(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to provide authority to the Secretary to—

"(A) regulate the manner by which an eligible entity or local government improves the cybersecurity of the information systems owned or operated by, or on behalf of, the eligible entity or local government; or

"(B) condition the receipt of grants under this section on—

"(i) participation in a particular Federal program; or

"(ii) the use of a specific product or technology.

"(j) LIMITATIONS ON USES OF FUNDS.—

"(1) IN GENERAL.—Any entity that receives funds from a grant under this section may not use the grant—

"(A) to supplant State or local funds;

"(B) for any recipient cost-sharing contribution;

"(C) to pay a ransom;

"(D) for recreational or social purposes; or

"(E) for any purpose that does not address cybersecurity risks or cybersecurity threats on information systems owned or operated by, or on behalf of, the eligible entity that receives the grant or a local government within the jurisdiction of the eligible entity.

"(2) COMPLIANCE OVERSIGHT.—In addition to any other remedy available, the Secretary may take such actions as are necessary to ensure that a recipient of a grant under this section uses the grant for the purposes for which the grant is awarded.

"(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1)(A) shall be construed to prohibit the use of funds from a grant under this section awarded to a State, local, or Tribal government for otherwise permissible uses under this section on the basis that the State, local, or Tribal government has previously

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used State, local, or Tribal funds to support the same or similar uses.

"(k) OPPORTUNITY TO AMEND APPLICATIONS.—In considering applications for grants under this section, the Secretary shall provide applicants with a reasonable opportunity to correct any defects in those applications before making final awards, including by allowing applicants to revise a submitted Cybersecurity Plan.

"(l) APPORTIONMENT.—For fiscal year 2022 and each fiscal year thereafter, the Secretary shall apportion amounts appropriated to carry out this section among eligible entities as follows:

"(1) BASELINE AMOUNT.—The Secretary shall first apportion—

"(A) 0.25 percent of such amounts to each of American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the United States Virgin Islands;

"(B) 1 percent of such amounts to each of the remaining States; and

"(C) 3 percent of such amounts to Tribal governments.

"(2) REMAINDER.—The Secretary shall apportion the remainder of such amounts to States as follows:

"(A) 50 percent of such remainder in the ratio that the population of each State, bears to the population of all States; and

"(B) 50 percent of such remainder in the ratio that the population of each State that resides in rural areas, bears to the population of all States that resides in rural areas.

"(3) APPORTIONMENT AMONG TRIBAL GOVERNMENTS.—In determining how to apportion amounts to Tribal governments under paragraph (1)(C), the Secretary shall consult with the Secretary of the Interior and Tribal governments.

"(4) MULTI-ENTITY GRANTS.—An amount received from a multi-entity grant awarded under subsection (f)(1) by a State or Tribal government that is a member of the multi-entity group shall qualify as an apportionment for the purpose of this subsection.

"(m) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of the cost of an activity carried out using funds made available with a grant under this section may not exceed—

"(A) in the case of a grant to an eligible entity—

"(i) for fiscal year 2022, 90 percent;

"(ii) for fiscal year 2023, 80 percent;

"(iii) for fiscal year 2024, 70 percent; and

"(iv) for fiscal year 2025, 60 percent; and

"(B) in the case of a grant to a multi-entity group—

"(i) for fiscal year 2022, 100 percent;

"(ii) for fiscal year 2023, 90 percent;

"(iii) for fiscal year 2024, 80 percent; and

"(iv) for fiscal year 2025, 70 percent.

"(2) WAIVER.—

"(A) IN GENERAL.—The Secretary may waive or modify the requirements of paragraph (1) if an eligible entity or multi-entity group demonstrates economic hardship.

"(B) GUIDELINES.—The Secretary shall establish and publish guidelines for determining what constitutes economic hardship for the purposes of this subsection.

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"(C) CONSIDERATIONS.—In developing guidelines under subparagraph (B), the Secretary shall consider, with respect to the jurisdiction of an eligible entity—

"(i) changes in rates of unemployment in the jurisdiction from previous years;

"(ii) changes in the percentage of individuals who are eligible to receive benefits under the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) from previous years; and

"(iii) any other factors the Secretary considers appropriate.

"(3) WAIVER FOR TRIBAL GOVERNMENTS.—Notwithstanding paragraph (2), the Secretary, in consultation with the Secretary of the Interior and Tribal governments, may waive or modify the requirements of paragraph (1) for 1 or more Tribal governments if the Secretary determines that the waiver is in the public interest.

"(n) RESPONSIBILITIES OF GRANTEES.—

"(1) CERTIFICATION.—Each eligible entity or multi-entity group that receives a grant under this section shall certify to the Secretary that the grant will be used—

"(A) for the purpose for which the grant is awarded; and

"(B) in compliance with subsections (d) and (j).

"(2) AVAILABILITY OF FUNDS TO LOCAL GOVERNMENTS AND RURAL AREAS.—

"(A) IN GENERAL.—Subject to subparagraph (C), not later than 45 days after the date on which an eligible entity or multi-entity group receives a grant under this section, the eligible entity or multi-entity group shall, without imposing unreasonable or unduly burdensome requirements as a condition of receipt, obligate or otherwise make available to local governments within the jurisdiction of the eligible entity or the eligible entities that comprise the multi-entity group, consistent with the Cybersecurity Plan of the eligible entity or the Cybersecurity Plans of the eligible entities that comprise the multi-entity group—

"(i) not less than 80 percent of funds available under the grant;

"(ii) with the consent of the local governments, items, services, capabilities, or activities having a value of not less than 80 percent of the amount of the grant; or

"(iii) with the consent of the local governments, grant funds combined with other items, services, capabilities, or activities having the total value of not less than 80 percent of the amount of the grant.

"(B) AVAILABILITY TO RURAL AREAS.—In obligating funds, items, services, capabilities, or activities to local governments under subparagraph (A), the eligible entity or eligible entities that comprise the multi-entity group shall ensure that rural areas within the jurisdiction of the eligible entity or the eligible entities that comprise the multi-entity group receive not less than—

"(i) 25 percent of the amount of the grant awarded to the eligible entity;

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"(ii) items, services, capabilities, or activities having a value of not less than 25 percent of the amount of the grant awarded to the eligible entity; or

"(iii) grant funds combined with other items, services, capabilities, or activities having the total value of not less than 25 percent of the grant awarded to the eligible entity.

"(C) EXCEPTIONS.—This paragraph shall not apply to—

"(i) any grant awarded under this section that solely supports activities that are integral to the development or revision of the Cybersecurity Plan of the eligible entity; or

"(ii) the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, the United States Virgin Islands, or a Tribal government.

"(3) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO LOCAL GOVERNMENTS.—An eligible entity or multi-entity group shall certify to the Secretary that the eligible entity or multi-entity group has made the distribution to local governments required under paragraph (2).

"(4) EXTENSION OF PERIOD.—

"(A) IN GENERAL.—An eligible entity or multi-entity group may request in writing that the Secretary extend the period of time specified in paragraph (2) for an additional period of time.

"(B) APPROVAL.—The Secretary may approve a request for an extension under subparagraph (A) if the Secretary determines the extension is necessary to ensure that the obligation and expenditure of grant funds align with the purpose of the State and Local Cybersecurity Grant Program.

"(5) DIRECT FUNDING.—If an eligible entity does not make a distribution to a local government required under paragraph (2) in a timely fashion, the local government may petition the Secretary to request the Secretary to provide funds directly to the local government.

"(6) LIMITATION ON CONSTRUCTION.—A grant awarded under this section may not be used to acquire land or to construct, remodel, or perform alterations of buildings or other physical facilities.

"(7) CONSULTATION IN ALLOCATING FUNDS.—An eligible entity applying for a grant under this section shall agree to consult the Chief Information Officer, the Chief Information Security Officer, or an equivalent official of the eligible entity in allocating funds from a grant awarded under this section.

"(8) PENALTIES.—In addition to other remedies available to the Secretary, if an eligible entity violates a requirement of this subsection, the Secretary may—

"(A) terminate or reduce the amount of a grant awarded under this section to the eligible entity; or

"(B) distribute grant funds previously awarded to the eligible entity—

"(i) in the case of an eligible entity that is a State, directly to the appropriate local government as a

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replacement grant in an amount determined by the Secretary; or

"(ii) in the case of an eligible entity that is a Tribal government, to another Tribal government or Tribal governments as a replacement grant in an amount determined by the Secretary.

"(o) CONSULTATION WITH STATE, LOCAL, AND TRIBAL REPRESENTATIVES.—In carrying out this section, the Secretary shall consult with State, local, and Tribal representatives with professional experience relating to cybersecurity, including representatives of associations representing State, local, and Tribal governments, to inform—

"(1) guidance for applicants for grants under this section, including guidance for Cybersecurity Plans;

"(2) the study of risk-based formulas required under subsection (q)(4);

"(3) the development of guidelines required under subsection (m)(2)(B); and

"(4) any modifications described in subsection (q)(2)(D).

"(p) NOTIFICATION TO CONGRESS.—Not later than 3 business days before the date on which the Department announces the award of a grant to an eligible entity under this section, including an announcement to the eligible entity, the Secretary shall provide to the appropriate committees of Congress notice of the announcement.

"(q) REPORTS, STUDY, AND REVIEW.—

"(1) ANNUAL REPORTS BY GRANT RECIPIENTS.—

"(A) IN GENERAL.—Not later than 1 year after the date on which an eligible entity receives a grant under this section for the purpose of implementing the Cybersecurity Plan of the eligible entity, including an eligible entity that comprises a multi-entity group that receives a grant for that purpose, and annually thereafter until 1 year after the date on which funds from the grant are expended or returned, the eligible entity shall submit to the Secretary a report that, using the metrics described in the Cybersecurity Plan of the eligible entity, describes the progress of the eligible entity in—

"(i) implementing the Cybersecurity Plan of the eligible entity; and

"(ii) reducing cybersecurity risks to, and identifying, responding to, and recovering from cybersecurity threats to, information systems owned or operated by, or on behalf of, the eligible entity or, if the eligible entity is a State, local governments within the jurisdiction of the eligible entity.

"(B) ABSENCE OF PLAN.—Not later than 1 year after the date on which an eligible entity that does not have a Cybersecurity Plan receives funds under this section, and annually thereafter until 1 year after the date on which funds from the grant are expended or returned, the eligible entity shall submit to the Secretary a report describing how the eligible entity obligated and expended grant funds to—

"(i) develop or revise a Cybersecurity Plan; or

"(ii) assist with the activities described in subsection (d)(4).

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"(2) ANNUAL REPORTS TO CONGRESS.—Not less frequently than annually, the Secretary, acting through the Director, shall submit to Congress a report on—

"(A) the use of grants awarded under this section;

"(B) the proportion of grants used to support cybersecurity in rural areas;

"(C) the effectiveness of the State and Local Cybersecurity Grant Program;

"(D) any necessary modifications to the State and Local Cybersecurity Grant Program; and

"(E) any progress made toward—

"(i) developing, implementing, or revising Cybersecurity Plans; and

"(ii) reducing cybersecurity risks to, and identifying, responding to, and recovering from cybersecurity threats to, information systems owned or operated by, or on behalf of, State, local, or Tribal governments as a result of the award of grants under this section.

"(3) PUBLIC AVAILABILITY.—

"(A) IN GENERAL.—The Secretary, acting through the Director, shall make each report submitted under paragraph (2) publicly available, including by making each report available on the website of the Agency.

"(B) REDACTIONS.—In making each report publicly available under subparagraph (A), the Director may make redactions that the Director, in consultation with each eligible entity, determines necessary to protect classified or other information exempt from disclosure under section 552 of title 5, United States Code (commonly referred to as the 'Freedom of Information Act').

"(4) STUDY OF RISK-BASED FORMULAS.—

"(A) IN GENERAL.—Not later than September 30, 2024, the Secretary, acting through the Director, shall submit to the appropriate committees of Congress a study and legislative recommendations on the potential use of a risk-based formula for apportioning funds under this section, including—

"(i) potential components that could be included in a risk-based formula, including the potential impact of those components on support for rural areas under this section;

"(ii) potential sources of data and information necessary for the implementation of a risk-based formula;

"(iii) any obstacles to implementing a risk-based formula, including obstacles that require a legislative solution;

"(iv) if a risk-based formula were to be implemented for fiscal year 2026, a recommended risk-based formula for the State and Local Cybersecurity Grant Program; and

"(v) any other information that the Secretary, acting through the Director, determines necessary to help Congress understand the progress towards, and obstacles to, implementing a risk-based formula.

"(B) INAPPLICABILITY OF PAPERWORK REDUCTION ACT.—The requirements of chapter 35 of title 44, United States Code (commonly referred to as the 'Paperwork Reduction

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Act'), shall not apply to any action taken to carry out this paragraph.

"(5) TRIBAL CYBERSECURITY NEEDS REPORT.—Not later than 2 years after the date of enactment of this section, the Secretary, acting through the Director, shall submit to Congress a report that—

"(A) describes the cybersecurity needs of Tribal governments, which shall be determined in consultation with the Secretary of the Interior and Tribal governments; and

"(B) includes any recommendations for addressing the cybersecurity needs of Tribal governments, including any necessary modifications to the State and Local Cybersecurity Grant Program to better serve Tribal governments.

"(6) GAO REVIEW.—Not later than 3 years after the date of enactment of this section, the Comptroller General of the United States shall conduct a review of the State and Local Cybersecurity Grant Program, including—

"(A) the grant selection process of the Secretary; and

"(B) a sample of grants awarded under this section.

"(r) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated for activities under this section—

"(A) for fiscal year 2022, $200,000,000;

"(B) for fiscal year 2023, $400,000,000;

"(C) for fiscal year 2024, $300,000,000; and

"(D) for fiscal year 2025, $100,000,000.

"(2) TRANSFERS AUTHORIZED.—

"(A) IN GENERAL.—During a fiscal year, the Secretary or the head of any component of the Department that administers the State and Local Cybersecurity Grant Program may transfer not more than 5 percent of the amounts appropriated pursuant to paragraph (1) or other amounts appropriated to carry out the State and Local Cybersecurity Grant Program for that fiscal year to an account of the Department for salaries, expenses, and other administrative costs incurred for the management, administration, or evaluation of this section.

"(B) ADDITIONAL APPROPRIATIONS.—Any funds transferred under subparagraph (A) shall be in addition to any funds appropriated to the Department or the components described in subparagraph (A) for salaries, expenses, and other administrative costs.

"(s) TERMINATION.—

"(1) IN GENERAL.—Subject to paragraph (2), the requirements of this section shall terminate on September 30, 2025.

"(2) EXCEPTION.—The reporting requirements under subsection (q) shall terminate on the date that is 1 year after the date on which the final funds from a grant under this section are expended or returned.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2135), is amended by inserting after the item relating to section 2217 the following:

"Sec. 2218. State and Local Cybersecurity Grant Program.".

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TITLE VII—PUBLIC-PRIVATE PARTNERSHIPS

SEC. 70701. VALUE FOR MONEY ANALYSIS.

(a) IN GENERAL.—Notwithstanding any other provision of law, in the case of a project described in subsection (b), the entity carrying out the project shall, during the planning and project development process and prior to signing any Project Development Agreement, conduct a value for money analysis or comparable analysis of the project, which shall include an evaluation of—

(1) the life-cycle cost and project delivery schedule;

(2) the costs of using public funding versus private financing for the project;

(3) a description of the key assumptions made in developing the analysis, including—

(A) an analysis of any Federal grants or loans and subsidies received or expected (including tax depreciation costs);

(B) the key terms of the proposed public-private partnership agreement, if applicable (including the expected rate of return for private debt and equity), and major compensation events;

(C) a discussion of the benefits and costs associated with the allocation of risk;

(D) the determination of risk premiums assigned to various project delivery scenarios;

(E) assumptions about use, demand, and any user fee revenue generated by the project; and

(F) any externality benefits for the public generated by the project;

(4) a forecast of user fees and other revenues expected to be generated by the project, if applicable; and

(5) any other information the Secretary of Transportation determines to be appropriate.

(b) PROJECT DESCRIBED.—A project referred to in subsection (a) is a transportation project—

(1) with an estimated total cost of more than $750,000,000;

(2) carried out—

(A) by a public entity that is a State, territory, Indian Tribe, unit of local government, transit agency, port authority, metropolitan planning organization, airport authority, or other political subdivision of a State or local government; and

(B) in a State in which there is in effect a State law authorizing the use and implementation of public-private partnerships for transportation projects; and

(3)(A) that intends to submit a letter of interest, or has submitted a letter of interest after the date of enactment of this Act, to be carried out with—

(i) assistance under the TIFIA program under chapter 6 of title 23, United States Code; or

(ii) assistance under the Railroad Rehabilitation and Improvement Financing Program of the Federal Railroad Administration established under chapter 224 of title 49, United States Code; and

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(B) that is anticipated to generate user fees or other revenues that could support the capital and operating costs of such project.

(c) REPORTING REQUIREMENTS.—

(1) PROJECT REPORTS.—For each project described in subsection (b), the entity carrying out the project shall—

(A) include the results of the analysis under subsection (a) on the website of the project; and

(B) submit the results of the analysis to the Build America Bureau and the Secretary of Transportation.

(2) REPORT TO CONGRESS.—The Secretary of Transportation, in coordination with the Build America Bureau, shall, not later than 2 years after the date of enactment of this Act—

(A) compile the analyses submitted under paragraph (1)(B); and

(B) submit to Congress a report that—

(i) includes the analyses submitted under paragraph (1)(B);

(ii) describes—

(I) the use of private financing for projects described in subsection (b); and

(II) the costs and benefits of conducting a value for money analysis; and

(iii) identifies best practices for private financing of projects described in subsection (b).

(d) GUIDANCE.—The Secretary of Transportation, in coordination with the Build America Bureau, shall issue guidance on performance benchmarks, risk premiums, and expected rates of return on private financing for projects described in subsection (b).

TITLE VIII—FEDERAL PERMITTING IMPROVEMENT

SEC. 70801. FEDERAL PERMITTING IMPROVEMENT.

(a) DEFINITIONS.—Section 41001 of the FAST Act (42 U.S.C. 4370m) is amended—

(1) in paragraph (3), by inserting "and any interagency consultation" after "issued by an agency";

(2) in paragraph (4), by striking "means" and all that follows through the period at the end of subparagraph (B) and inserting "has the meaning given the term in section 1508.1 of title 40, Code of Federal Regulations (or successor regulations).";

(3) in paragraph (5), by striking "Federal Infrastructure Permitting Improvement Steering Council" and inserting "Federal Permitting Improvement Steering Council";

(4) in paragraph (6)(A)—

(A) in clause (ii), by striking "or" at the end;

(B) by redesignating clause (iii) as clause (iv); and

(C) by inserting after clause (ii) the following:

"(iii) is—

"(I) subject to NEPA;

"(II) sponsored by an Indian Tribe (as defined in section 4 of the Indian Self-Determination and

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Education Assistance Act (25 U.S.C. 5304)), an Alaska Native Corporation, a Native Hawaiian organization (as defined in section 6207 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7517)), the Department of Hawaiian Home Lands, or the Office of Hawaiian Affairs; and

"(III) located on land owned or under the jurisdiction of the entity that sponsors the activity under subclause (II); or"; and

(5) in paragraph (8), by striking "means" and all that follows through the period at the end and inserting "has the meaning given the term in section 1508.1 of title 40, Code of Federal Regulations (or successor regulations).".

(b) FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL.—Section 41002 of the FAST Act (42 U.S.C. 4370m–1) is amended—

(1) in the section heading, by striking "**FEDERAL PERMITTING IMPROVEMENT COUNCIL**" and inserting "**FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL**";

(2) in subsection (b)(2)(A)—

(A) in clause (i)—

(i) by striking "Each" and inserting the following:

"(I) IN GENERAL.—Each"; and

(ii) by adding at the end the following:

"(II) REDESIGNATION.—If an individual listed in subparagraph (B) designates a different member to serve on the Council than the member designated under subclause (I), the individual shall notify the Executive Director of the designation by not later than 30 days after the date on which the designation is made."; and

(B) in clause (iii)(II), by striking "a deputy secretary (or the equivalent) or higher" and inserting "the applicable agency councilmember";

(3) in subsection (c)—

(A) in paragraph (1)(C)(ii)—

(i) by striking subclause (I) and inserting the following:

"(I) IN GENERAL.—The performance schedules shall reflect employment of the most sound and efficient applicable processes, including the alignment of Federal reviews of projects, reduction of permitting and project delivery time, and consideration of the best practices for public participation.";

(ii) by redesignating subclause (II) as subclause (III);

(iii) by inserting after subclause (I) the following:

"(II) GOAL.—

"(aa) IN GENERAL.—To the maximum extent practicable, and consistent with applicable Federal law, the Executive Director, in consultation with the Council, shall aim to develop recommended performance schedules under clause (i) of not more than 2 years.

"(bb) EXCEPTION.—If a recommended performance schedule developed under clause (i) exceeds 2 years, the relevant agencies, in

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consultation with the Executive Director and the Council, shall explain in that recommended performance schedule the factors that cause the environmental reviews and authorizations in that category of covered projects to take longer than 2 years."; and

(iv) in subclause (III)(bb) (as so redesignated), by striking "on the basis of data from the preceding 2 calendar years" and inserting "based on relevant historical data, as determined by the Executive Director,";

(B) in paragraph (2)(B)—

(i) in the matter preceding clause (i), by striking "later than" and all that follows through "practices for" and inserting "less frequently than annually, the Council shall issue recommendations on the best practices for improving the Federal permitting process for covered projects, which may include";

(ii) in clause (i)—

(I) by striking "stakeholder engagement, including fully considering" and inserting "stakeholder engagement, including—

"(II) fully considering"; and

(II) by inserting before subclause (II) (as added by subclause (I)) the following:

"(I) engaging with Native American stakeholders to ensure that project sponsors and agencies identify potential natural, archeological, and cultural resources and locations of historic and religious significance in the area of a covered project; and";

(iii) in clause (vii), by striking "and" at the end;

(iv) by redesignating clause (viii) as clause (x); and

(v) by inserting after clause (vii) the following:

"(viii) in coordination with the Executive Director, improving preliminary engagement with project sponsors in developing coordinated project plans;

"(ix) using programmatic assessments, templates, and other tools based on the best available science and data; and"; and

(C) in paragraph (3)(A), by inserting ", including agency compliance with intermediate and final completion dates described in coordinated project plans" after "authorizations"; and

(4) by striking subsection (d).

(c) PERMITTING PROCESS IMPROVEMENT.—Section 41003 of the FAST Act (42 U.S.C. 4370m–2) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by adding at the end the following:

"(D) CONFIDENTIALITY.—Any information relating to Native American natural, cultural, and historical resources submitted in a notice by a project sponsor under subparagraph (A) shall be—

"(i) kept confidential; and

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"(ii) exempt from the disclosure requirements under section 552 of title 5, United States Code (commonly known as the 'Freedom of Information Act'), and the Federal Advisory Committee Act (5 U.S.C. App.).";

(B) in paragraph (2)—

(i) in subparagraph (A), in the matter preceding clause (i), by striking "45 days" and inserting "21 calendar days"; and

(ii) in subparagraph (B), by inserting "14 calendar day" before "deadline"; and

(C) in paragraph (3)(A), in the matter preceding clause (i), by inserting "and the Executive Director" after "as applicable,";

(2) in subsection (b)—

(A) in paragraph (2)(A), by adding at the end the following:

"(iii) PROJECTS OTHER THAN COVERED PROJECTS.—

"(I) IN GENERAL.—The Executive Director may direct a lead agency to create a specific entry on the Dashboard for a project that is not a covered project and is under review by the lead agency if the Executive Director determines that a Dashboard entry for that project is in the interest of transparency.

"(II) REQUIREMENTS.—Not later than 14 days after the date on which the Executive Director directs the lead agency to create a specific entry on the Dashboard for a project described in subclause (I), the lead agency shall create and maintain a specific entry on the Dashboard for the project that contains—

"(aa) a comprehensive permitting timetable, as described in subsection (c)(2)(A);

"(bb) the status of the compliance of each lead agency, cooperating agency, and participating agency with the permitting timetable required under item (aa);

"(cc) any modifications of the permitting timetable required under item (aa), including an explanation as to why the permitting timetable was modified; and

"(dd) information about project-related public meetings, public hearings, and public comment periods, which shall be presented in English and the predominant language of the community or communities most affected by the project, as that information becomes available."; and

(B) in paragraph (3)(A)—

(i) in clause (i)—

(I) in subclause (IV), by striking "and" at the end;

(II) by redesignating subclause (V) as subclause (VI);

(III) by inserting after subclause (IV) the following:

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"(V) information on the status of mitigation measures that were agreed to as part of the environmental review and permitting process, including whether and when the mitigation measures have been fully implemented; and"; and

(IV) in subclause (VI) (as so redesignated), by striking "and" at the end;

(ii) in clause (ii), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(iii) information about project-related public meetings, public hearings, and public comment periods, which shall be presented in English and the predominant language of the community or communities most affected by the project, as that information becomes available."; and

(3) in subsection (c)(2)—

(A) in subparagraph (A), strike "coordination" and insert "coordinated";

(B) in subparagraph (D)(i)—

(i) by redesignating subclauses (I) through (III) as subclauses (II) through (IV), respectively;

(ii) by inserting before subclause (II) (as so redesignated) the following:

"(I) the facilitating or lead agency, as applicable, consults with the Executive Director regarding the potential modification not less than 15 days before engaging in the consultation under subclause (II);"; and

(iii) in subclause (II) (as so redesignated), by inserting ", the Executive Director," after "participating agencies"; and

(C) in subparagraph (F)—

(i) in clause (i)—

(I) by inserting "intermediate and final" before "completion dates"; and

(II) by inserting "intermediate or final" before "completion date"; and

(ii) in clause (ii)—

(I) in the matter preceding subclause (I), by striking "a completion date for agency action on a covered project or is at significant risk of failing to conform with" and inserting "an intermediate or final completion date for agency action on a covered project or reasonably believes the agency will fail to conform with a completion date 30 days before"; and

(II) in subclause (I), by striking "significantly risking failing to conform" and inserting "reasonably believing the agency will fail to conform".

(d) COORDINATION OF REQUIRED REVIEWS.—Section 41005 of the FAST Act (42 U.S.C. 4370m–4) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

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"(3) where an environmental impact statement is required for a project, prepare a single, joint interagency environmental impact statement for the project unless the lead agency provides justification in the coordinated project plan that multiple environmental documents are more efficient for project review and authorization.";

(2) in subsection (b)—

(A) by striking "(1) STATE ENVIRONMENTAL DOCUMENTS; SUPPLEMENTAL DOCUMENTS.—";

(B) by redesignating subparagraphs (A) through (E) as paragraphs (1) through (5), respectively, and indenting appropriately;

(C) in paragraph (1) (as so redesignated)—

(i) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and indenting appropriately; and

(ii) in subparagraph (A) (as so redesignated)—

(I) by striking "State laws and procedures" and inserting "the laws and procedures of a State or Indian Tribe (as defined in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5130))"; and

(II) by inserting "developed pursuant to laws and procedures of that State or Indian Tribe (as so defined) that are of equal or greater rigor to each applicable Federal law and procedure, and" after "Council on Environmental Quality,";

(D) in paragraph (2) (as so redesignated), by striking "subparagraph (A)" each place it appears and inserting "paragraph (1)";

(E) in paragraph (3) (as so redesignated)—

(i) in the matter preceding clause (i), by striking "subparagraph (A)" and inserting "paragraph (1)"; and

(ii) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(F) in paragraph (4) (as so redesignated)—

(i) in the matter preceding clause (i), by striking "subparagraph (C)" and inserting "paragraph (3)"; and

(ii) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and indenting appropriately; and

(G) in paragraph (5) (as so redesignated)—

(i) by striking "subparagraph (A)" and inserting "paragraph (1)"; and

(ii) by striking "subparagraph (C)" and inserting "paragraph (3)";

(3) in subsection (c)(4)—

(A) in the matter preceding subparagraph (A), by striking "determines that the development of the higher level of detail will not prevent—" and inserting "determines that—";

(B) in subparagraph (A), by inserting "the development of the higher level of detail will not prevent" before "the lead agency"; and

(C) by striking subparagraph (B) and inserting the following:

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"(B) the preferred and other alternatives are developed in sufficient detail to enable the public to comment on the alternatives.";

(4) by redesignating subsection (f) as subsection (g); and

(5) by inserting after subsection (e) the following:

"(f) RECORD OF DECISION.—When an environmental impact statement is prepared, Federal agencies must, to the maximum extent practicable, issue a record of decision not later than 90 days after the date on which the final environmental impact statement is issued.".

(e) LITIGATION, JUDICIAL REVIEW, AND SAVINGS PROVISION.—Section 41007 of the FAST Act (42 U.S.C. 4370m–6) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking "the action" and inserting "the claim"; and

(ii) by striking "of the final record of decision or approval or denial of a permit" and inserting "of notice of final agency action on the authorization"; and

(B) in subparagraph (B)(i), by striking "the action" and inserting "the claim"; and

(2) in subsection (e), in the matter preceding paragraph (1), by striking "this section" and inserting "this title".

(f) REPORTS.—Section 41008 of the FAST Act (42 U.S.C. 4370m–7) is amended by striking subsection (a) and inserting the following:

"(a) REPORTS TO CONGRESS.—

"(1) EXECUTIVE DIRECTOR ANNUAL REPORT.—

"(A) IN GENERAL.—Not later than April 15 of each year for 10 years beginning on the date of enactment of the Infrastructure Investment and Jobs Act, the Executive Director shall submit to Congress a report detailing the progress accomplished under this title during the previous fiscal year.

"(B) OPPORTUNITY TO INCLUDE COMMENTS.—Each councilmember, with input from the respective agency CERPO, shall have the opportunity to include comments concerning the performance of the agency in the report described in subparagraph (A).

"(2) QUARTERLY AGENCY PERFORMANCE REPORT.—The Executive Director shall submit to Congress a quarterly report evaluating agency compliance with the provisions of this title, which shall include a description of the implementation and adherence of each agency to the coordinated project plan and permitting timetable requirements under section 41003(c).

"(3) AGENCY BEST PRACTICES REPORT.—Not later than April 15 of each year, each participating agency and lead agency shall submit to Congress and the Director of the Office of Management and Budget a report assessing the performance of the agency in implementing the best practices described in section 41002(c)(2)(B).".

(g) FUNDING FOR GOVERNANCE, OVERSIGHT, AND PROCESSING OF ENVIRONMENTAL REVIEWS AND PERMITS.—Section 41009 of the FAST Act (42 U.S.C. 4370m–8) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—For the purpose of carrying out this title, the Executive Director, in consultation with the heads of the agencies listed in section 41002(b)(2)(B) and with the guidance of the

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Director of the Office of Management and Budget, may, after public notice and opportunity for comment, issue regulations establishing a fee structure for sponsors of covered projects to reimburse the United States for reasonable costs incurred in conducting environmental reviews and authorizations for covered projects.";

(2) in subsection (b), by striking "and 41003" and inserting "through 41008"; and

(3) in subsection (d)—

(A) in the subsection heading, by striking "AND PERMITTING"; and

(B) by striking paragraphs (2) and (3) and inserting the following:

"(2) AVAILABILITY.—Amounts in the Fund shall be available to the Executive Director, without fiscal year limitation, solely for the purposes of administering, implementing, and enforcing this title, including the expenses of the Council, staffing of the Office of the Executive Director, and support of the role of the Council as a Federal center for permitting excellence, which may include supporting interagency detailee and rotation opportunities, advanced training, enhanced support for agency project managers, and fora for sharing information and lessons learned.

"(3) TRANSFER.—For the purpose of carrying out this title, the Executive Director, with the approval of the Director of the Office of Management and Budget, may transfer amounts in the Fund to other Federal agencies and State, Tribal, and local governments to facilitate timely and efficient environmental reviews and authorizations for covered projects and other projects under this title, including direct reimbursement agreements with agency CERPOs, reimbursable agreements, and approval and consultation processes and staff for covered projects.".

(h) SUNSET.—Section 41013 of the FAST Act (42 U.S.C. 4370m–12) is repealed.

(i) TECHNICAL CORRECTION.—Section 41002(b)(2)(A)(ii) of the FAST Act (42 U.S.C. 4370m–1(b)(2)(A)(ii)) is amended by striking "councilmem-ber" and inserting "councilmember".

(j) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the FAST Act (Public Law 114–94; 129 Stat. 1319) is amended by striking the item relating to section 41002 and inserting the following:

"Sec. 41002. Federal Permitting Improvement Steering Council.".

TITLE IX—BUILD AMERICA, BUY AMERICA

Subtitle A—Build America, Buy America

SEC. 70901. SHORT TITLE.

This subtitle may be cited as the "Build America, Buy America Act".

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PART I—BUY AMERICA SOURCING REQUIREMENTS

SEC. 70911. FINDINGS.

Congress finds that—

(1) the United States must make significant investments to install, upgrade, or replace the public works infrastructure of the United States;

(2) with respect to investments in the infrastructure of the United States, taxpayers expect that their public works infrastructure will be produced in the United States by American workers;

(3) United States taxpayer dollars invested in public infrastructure should not be used to reward companies that have moved their operations, investment dollars, and jobs to foreign countries or foreign factories, particularly those that do not share or openly flout the commitments of the United States to environmental, worker, and workplace safety protections;

(4) in procuring materials for public works projects, entities using taxpayer-financed Federal assistance should give a commonsense procurement preference for the materials and products produced by companies and workers in the United States in accordance with the high ideals embodied in the environmental, worker, workplace safety, and other regulatory requirements of the United States;

(5) common construction materials used in public works infrastructure projects, including steel, iron, manufactured products, non-ferrous metals, plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables), glass (including optic glass), lumber, and drywall are not adequately covered by a domestic content procurement preference, thus limiting the impact of taxpayer purchases to enhance supply chains in the United States;

(6) the benefits of domestic content procurement preferences extend beyond economics;

(7) by incentivizing domestic manufacturing, domestic content procurement preferences reinvest tax dollars in companies and processes using the highest labor and environmental standards in the world;

(8) strong domestic content procurement preference policies act to prevent shifts in production to countries that rely on production practices that are significantly less energy efficient and far more polluting than those in the United States;

(9) for over 75 years, Buy America and other domestic content procurement preference laws have been part of the United States procurement policy, ensuring that the United States can build and rebuild the infrastructure of the United States with high-quality American-made materials;

(10) before the date of enactment of this Act, a domestic content procurement preference requirement may not apply, may apply only to a narrow scope of products and materials, or may be limited by waiver with respect to many infrastructure programs, which necessitates a review of such programs, including programs for roads, highways, and bridges, public

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transportation, dams, ports, harbors, and other maritime facilities, intercity passenger and freight railroads, freight and intermodal facilities, airports, water systems, including drinking water and wastewater systems, electrical transmission facilities and systems, utilities, broadband infrastructure, and buildings and real property;

(11) Buy America laws create demand for domestically produced goods, helping to sustain and grow domestic manufacturing and the millions of jobs domestic manufacturing supports throughout product supply chains;

(12) as of the date of enactment of this Act, domestic content procurement preference policies apply to all Federal Government procurement and to various Federal-aid infrastructure programs;

(13) a robust domestic manufacturing sector is a vital component of the national security of the United States;

(14) as more manufacturing operations of the United States have moved offshore, the strength and readiness of the defense industrial base of the United States has been diminished; and

(15) domestic content procurement preference laws—

(A) are fully consistent with the international obligations of the United States; and

(B) together with the government procurements to which the laws apply, are important levers for ensuring that United States manufacturers can access the government procurement markets of the trading partners of the United States.

SEC. 70912. DEFINITIONS.

In this part:

(1) DEFICIENT PROGRAM.—The term "deficient program" means a program identified by the head of a Federal agency under section 70913(c).

(2) DOMESTIC CONTENT PROCUREMENT PREFERENCE.—The term "domestic content procurement preference" means a requirement that no amounts made available through a program for Federal financial assistance may be obligated for a project unless—

(A) all iron and steel used in the project are produced in the United States;

(B) the manufactured products used in the project are produced in the United States; or

(C) the construction materials used in the project are produced in the United States.

(3) FEDERAL AGENCY.—The term "Federal agency" means any authority of the United States that is an "agency" (as defined in section 3502 of title 44, United States Code), other than an independent regulatory agency (as defined in that section).

(4) FEDERAL FINANCIAL ASSISTANCE.—

(A) IN GENERAL.—The term "Federal financial assistance" has the meaning given the term in section 200.1 of title 2, Code of Federal Regulations (or successor regulations).

(B) INCLUSION.—The term "Federal financial assistance" includes all expenditures by a Federal agency to a non-Federal entity for an infrastructure project, except

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that it does not include expenditures for assistance authorized under section 402, 403, 404, 406, 408, or 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170a, 5170b, 5170c, 5172, 5174, or 5192) relating to a major disaster or emergency declared by the President under section 401 or 501, respectively, of such Act (42 U.S.C. 5170, 5191) or pre and post disaster or emergency response expenditures.

(5) INFRASTRUCTURE.—The term "infrastructure" includes, at a minimum, the structures, facilities, and equipment for, in the United States—

(A) roads, highways, and bridges;
(B) public transportation;
(C) dams, ports, harbors, and other maritime facilities;
(D) intercity passenger and freight railroads;
(E) freight and intermodal facilities;
(F) airports;
(G) water systems, including drinking water and wastewater systems;
(H) electrical transmission facilities and systems;
(I) utilities;
(J) broadband infrastructure; and
(K) buildings and real property.

(6) PRODUCED IN THE UNITED STATES.—The term "produced in the United States" means—

(A) in the case of iron or steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
(B) in the case of manufactured products, that—

(i) the manufactured product was manufactured in the United States; and

(ii) the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and

(C) in the case of construction materials, that all manufacturing processes for the construction material occurred in the United States.

(7) PROJECT.—The term "project" means the construction, alteration, maintenance, or repair of infrastructure in the United States.

SEC. 70913. IDENTIFICATION OF DEFICIENT PROGRAMS.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the head of each Federal agency shall—

(1) submit to the Office of Management and Budget and to Congress, including a separate notice to each appropriate congressional committee, a report that identifies each Federal financial assistance program for infrastructure administered by the Federal agency; and

(2) publish in the Federal Register the report under paragraph (1).

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(b) REQUIREMENTS.—In the report under subsection (a), the head of each Federal agency shall, for each Federal financial assistance program—

(1) identify all domestic content procurement preferences applicable to the Federal financial assistance;

(2) assess the applicability of the domestic content procurement preference requirements, including—

(A) section 313 of title 23, United States Code;

(B) section 5323(j) of title 49, United States Code;

(C) section 22905(a) of title 49, United States Code;

(D) section 50101 of title 49, United States Code;

(E) section 603 of the Federal Water Pollution Control Act (33 U.S.C. 1388);

(F) section 1452(a)(4) of the Safe Drinking Water Act (42 U.S.C. 300j–12(a)(4));

(G) section 5035 of the Water Infrastructure Finance and Innovation Act of 2014 (33 U.S.C. 3914);

(H) any domestic content procurement preference included in an appropriations Act; and

(I) any other domestic content procurement preference in Federal law (including regulations);

(3) provide details on any applicable domestic content procurement preference requirement, including the purpose, scope, applicability, and any exceptions and waivers issued under the requirement; and

(4) include a description of the type of infrastructure projects that receive funding under the program, including information relating to—

(A) the number of entities that are participating in the program;

(B) the amount of Federal funds that are made available for the program for each fiscal year; and

(C) any other information the head of the Federal agency determines to be relevant.

(c) LIST OF DEFICIENT PROGRAMS.—In the report under subsection (a), the head of each Federal agency shall include a list of Federal financial assistance programs for infrastructure identified under that subsection for which a domestic content procurement preference requirement—

(1) does not apply in a manner consistent with section 70914; or

(2) is subject to a waiver of general applicability not limited to the use of specific products for use in a specific project.

SEC. 70914. APPLICATION OF BUY AMERICA PREFERENCE.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the head of each Federal agency shall ensure that none of the funds made available for a Federal financial assistance program for infrastructure, including each deficient program, may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States.

(b) WAIVER.—The head of a Federal agency that applies a domestic content procurement preference under this section may waive the application of that preference in any case in which the head of the Federal agency finds that—

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(1) applying the domestic content procurement preference would be inconsistent with the public interest;

(2) types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or

(3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) WRITTEN JUSTIFICATION.—Before issuing a waiver under subsection (b), the head of the Federal agency shall—

(1) make publicly available in an easily accessible location on a website designated by the Office of Management and Budget and on the website of the Federal agency a detailed written explanation for the proposed determination to issue the waiver; and

(2) provide a period of not less than 15 days for public comment on the proposed waiver.

(d) REVIEW OF WAIVERS OF GENERAL APPLICABILITY.—

(1) IN GENERAL.—An existing general applicability waiver or a general applicability waiver issued under subsection (b) shall be reviewed every 5 years after the date on which the waiver is issued.

(2) REVIEW.—In conducting a review of a general applicability waiver, the head of a Federal agency shall—

(A) publish in the Federal Register a notice that—

(i) describes the justification for a general applicability waiver; and

(ii) requests public comments for a period of not less than 30 days on the continued need for a general applicability waiver; and

(B) publish in the Federal Register a determination on whether to continue or discontinue the general applicability waiver, taking into account the comments received in response to the notice published under subparagraph (A).

(3) LIMITATION ON THE REVIEW OF EXISTING WAIVERS OF GENERAL APPLICABILITY.—For a period of 5 years beginning on the date of enactment of this Act, paragraphs (1) and (2) shall not apply to any product-specific general applicability waiver that was issued more than 180 days before the date of enactment of this Act.

(e) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.—This section shall be applied in a manner consistent with United States obligations under international agreements.

SEC. 70915. OMB GUIDANCE AND STANDARDS.

(a) GUIDANCE.—The Director of the Office of Management and Budget shall—

(1) issue guidance to the head of each Federal agency—

(A) to assist in identifying deficient programs under section 70913(c); and

(B) to assist in applying new domestic content procurement preferences under section 70914; and

(2) if necessary, amend subtitle A of title 2, Code of Federal Regulations (or successor regulations), to ensure that domestic content procurement preference requirements required by this

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part or other Federal law are imposed through the terms and conditions of awards of Federal financial assistance.

(b) STANDARDS FOR CONSTRUCTION MATERIALS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall issue standards that define the term "all manufacturing processes" in the case of construction materials.

(2) CONSIDERATIONS.—In issuing standards under paragraph (1), the Director shall—

(A) ensure that the standards require that each manufacturing process required for the manufacture of the construction material and the inputs of the construction material occurs in the United States; and

(B) take into consideration and seek to maximize the direct and indirect jobs benefited or created in the production of the construction material.

SEC. 70916. TECHNICAL ASSISTANCE PARTNERSHIP AND CONSULTATION SUPPORTING DEPARTMENT OF TRANSPORTATION BUY AMERICA REQUIREMENTS.

(a) DEFINITIONS.—In this section:

(1) BUY AMERICA LAW.—The term "Buy America law" means—

(A) section 313 of title 23, United States Code;

(B) section 5323(j) of title 49, United States Code;

(C) section 22905(a) of title 49, United States Code;

(D) section 50101 of title 49, United States Code; and

(E) any other domestic content procurement preference for an infrastructure project under the jurisdiction of the Secretary.

(2) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(b) TECHNICAL ASSISTANCE PARTNERSHIP.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall enter into a technical assistance partnership with the Secretary of Commerce, acting through the Director of the National Institute of Standards and Technology—

(1) to ensure the development of a domestic supply base to support intermodal transportation in the United States, such as intercity high speed rail transportation, public transportation systems, highway construction or reconstruction, airport improvement projects, and other infrastructure projects under the jurisdiction of the Secretary;

(2) to ensure compliance with Buy America laws that apply to a project that receives assistance from the Federal Highway Administration, the Federal Transit Administration, the Federal Railroad Administration, the Federal Aviation Administration, or another office or modal administration of the Secretary of Transportation;

(3) to encourage technologies developed with the support of and resources from the Secretary to be transitioned into commercial market and applications; and

(4) to establish procedures for consultation under subsection (c).

(c) CONSULTATION.—Before granting a written waiver under a Buy America law, the Secretary shall consult with the Director

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of the Hollings Manufacturing Extension Partnership regarding whether there is a domestic entity that could provide the iron, steel, manufactured product, or construction material that is the subject of the proposed waiver.

(d) ANNUAL REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation, the Committee on Banking, Housing, and Urban Affairs, the Committee on Environment and Public Works, and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure and the Committee on Oversight and Reform of the House of Representatives a report that includes—

(1) a detailed description of the consultation procedures developed under subsection (b)(4);

(2) a detailed description of each waiver requested under a Buy America law in the preceding year that was subject to consultation under subsection (c), and the results of the consultation;

(3) a detailed description of each waiver granted under a Buy America law in the preceding year, including the type of waiver and the reasoning for granting the waiver; and

(4) an update on challenges and gaps in the domestic supply base identified in carrying out subsection (b)(1), including a list of actions and policy changes the Secretary recommends be taken to address those challenges and gaps.

SEC. 70917. APPLICATION.

(a) IN GENERAL.—This part shall apply to a Federal financial assistance program for infrastructure only to the extent that a domestic content procurement preference as described in section 70914 does not already apply to iron, steel, manufactured products, and construction materials.

(b) SAVINGS PROVISION.—Nothing in this part affects a domestic content procurement preference for a Federal financial assistance program for infrastructure that is in effect and that meets the requirements of section 70914.

(c) LIMITATION WITH RESPECT TO AGGREGATES.—In this part—

(1) the term "construction materials" shall not include cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives; and

(2) the standards developed under section 70915(b)(1) shall not include cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives as inputs of the construction material.

PART II—MAKE IT IN AMERICA

SEC. 70921. REGULATIONS RELATING TO BUY AMERICAN ACT.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Director of the Office of Management and Budget ("Director"), acting through the Administrator for Federal Procurement Policy and, in consultation with the Federal Acquisition Regulatory Council, shall promulgate final regulations or other policy or management guidance, as appropriate, to standardize and simplify how Federal agencies comply with, report on,

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and enforce the Buy American Act. The regulations or other policy or management guidance shall include, at a minimum, the following:

(1) Guidelines for Federal agencies to determine, for the purposes of applying sections 8302(a) and 8303(b)(3) of title 41, United States Code, the circumstances under which the acquisition of articles, materials, or supplies mined, produced, or manufactured in the United States is inconsistent with the public interest.

(2) Guidelines to ensure Federal agencies base determinations of non-availability on appropriate considerations, including anticipated project delays and lack of substitutable articles, materials, and supplies mined, produced, or manufactured in the United States, when making determinations of non-availability under section 8302(a)(1) of title 41, United States Code.

(3)(A) Uniform procedures for each Federal agency to make publicly available, in an easily identifiable location on the website of the agency, and within the following time periods, the following information:

(i) A written description of the circumstances in which the head of the agency may waive the requirements of the Buy American Act.

(ii) Each waiver made by the head of the agency within 30 days after making such waiver, including a justification with sufficient detail to explain the basis for the waiver.

(B) The procedures established under this paragraph shall ensure that the head of an agency, in consultation with the head of the Made in America Office established under section 70923(a), may limit the publication of classified information, trade secrets, or other information that could damage the United States.

(4) Guidelines for Federal agencies to ensure that a project is not disaggregated for purposes of avoiding the applicability of the requirements under the Buy American Act.

(5) An increase to the price preferences for domestic end products and domestic construction materials.

(6) Amending the definitions of "domestic end product" and "domestic construction material" to ensure that iron and steel products are, to the greatest extent possible, made with domestic components.

(b) GUIDELINES RELATING TO WAIVERS.—

(1) INCONSISTENCY WITH PUBLIC INTEREST.—

(A) IN GENERAL.—With respect to the guidelines developed under subsection (a)(1), the Administrator shall seek to minimize waivers related to contract awards that—

(i) result in a decrease in employment in the United States, including employment among entities that manufacture the articles, materials, or supplies; or

(ii) result in awarding a contract that would decrease domestic employment.

(B) COVERED EMPLOYMENT.—For purposes of subparagraph (A), employment refers to positions directly involved in the manufacture of articles, materials, or supplies, and does not include positions related to management, research and development, or engineering and design.

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(2) ASSESSMENT ON USE OF DUMPED OR SUBSIDIZED FOREIGN PRODUCTS.—

(A) IN GENERAL.—To the extent otherwise permitted by law, before granting a waiver in the public interest to the guidelines developed under subsection (a)(1) with respect to a product sourced from a foreign country, a Federal agency shall assess whether a significant portion of the cost advantage of the product is the result of the use of dumped steel, iron, or manufactured goods or the use of injuriously subsidized steel, iron, or manufactured goods.

(B) CONSULTATION.—The Federal agency conducting the assessment under subparagraph (A) shall consult with the International Trade Administration in making the assessment if the agency considers such consultation to be helpful.

(C) USE OF FINDINGS.—The Federal agency conducting the assessment under subparagraph (A) shall integrate any findings from the assessment into its waiver determination.

(c) SENSE OF CONGRESS ON INCREASING DOMESTIC CONTENT REQUIREMENTS.—It is the sense of Congress that the Federal Acquisition Regulatory Council should amend the Federal Acquisition Regulation to increase the domestic content requirements for domestic end products and domestic construction material to 75 percent, or, in the event of no qualifying offers, 60 percent.

(d) DEFINITION OF END PRODUCT MANUFACTURED IN THE UNITED STATES.—Not later than 1 year after the date of the enactment of this Act, the Federal Acquisition Regulatory Council shall amend part 25 of the Federal Acquisition Regulation to provide a definition for "end product manufactured in the United States," including guidelines to ensure that manufacturing processes involved in production of the end product occur domestically.

SEC. 70922. AMENDMENTS RELATING TO BUY AMERICAN ACT.

(a) SPECIAL RULES RELATING TO AMERICAN MATERIALS REQUIRED FOR PUBLIC USE.—Section 8302 of title 41, United States Code, is amended by adding at the end the following new subsection:

"(c) SPECIAL RULES.—The following rules apply in carrying out the provisions of subsection (a):

"(1) IRON AND STEEL MANUFACTURED IN THE UNITED STATES.—For purposes of this section, manufactured articles, materials, and supplies of iron and steel are deemed manufactured in the United States only if all manufacturing processes involved in the production of such iron and steel, from the initial melting stage through the application of coatings, occurs in the United States.

"(2) LIMITATION ON EXCEPTION FOR COMMERCIALLY AVAILABLE OFF-THE-SHELF ITEMS.—Notwithstanding any law or regulation to the contrary, including section 1907 of this title and the Federal Acquisition Regulation, the requirements of this section apply to all iron and steel articles, materials, and supplies.".

(b) PRODUCTION OF IRON AND STEEL FOR PURPOSES OF CONTRACTS FOR PUBLIC WORKS.—Section 8303 of title 41, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

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(2) by inserting after subsection (b) the following new subsection:

"(c) SPECIAL RULES.—

"(1) PRODUCTION OF IRON AND STEEL.—For purposes of this section, manufactured articles, materials, and supplies of iron and steel are deemed manufactured in the United States only if all manufacturing processes involved in the production of such iron and steel, from the initial melting stage through the application of coatings, occurs in the United States.

"(2) LIMITATION ON EXCEPTION FOR COMMERCIALLY AVAILABLE OFF-THE-SHELF ITEMS.—Notwithstanding any law or regulation to the contrary, including section 1907 of this title and the Federal Acquisition Regulation, the requirements of this section apply to all iron and steel articles, materials, and supplies used in contracts described in subsection (a).".

(c) ANNUAL REPORT.—Subsection (b) of section 8302 of title 41, United States Code, is amended to read as follows:

"(b) REPORTS.—

"(1) IN GENERAL.—Not later than 180 days after the end of the fiscal year during which the Build America, Buy America Act is enacted, and annually thereafter for 4 years, the Director of the Office of Management and Budget, in consultation with the Administrator of General Services, shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Reform of the House of Representatives a report on the total amount of acquisitions made by Federal agencies in the relevant fiscal year of articles, materials, or supplies acquired from entities that mine, produce, or manufacture the articles, materials, or supplies outside the United States.

"(2) EXCEPTION FOR INTELLIGENCE COMMUNITY.—This subsection does not apply to acquisitions made by an agency, or component of an agency, that is an element of the intelligence community as specified in, or designated under, section 3 of the National Security Act of 1947 (50 U.S.C. 3003).".

(d) DEFINITION.—Section 8301 of title 41, United States Code, is amended by adding at the end the following new paragraph:

"(3) FEDERAL AGENCY.—The term 'Federal agency' has the meaning given the term 'executive agency' in section 133 of this title.".

(e) CONFORMING AMENDMENTS.—Title 41, United States Code, is amended—

(1) in section 8302(a)—

(A) in paragraph (1)—

(i) by striking "department or independent establishment" and inserting "Federal agency"; and

(ii) by striking "their acquisition to be inconsistent with the public interest or their cost to be unreasonable" and inserting "their acquisition to be inconsistent with the public interest, their cost to be unreasonable, or that the articles, materials, or supplies of the class or kind to be used, or the articles, materials, or supplies from which they are manufactured, are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality"; and

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(B) in paragraph (2), by amending subparagraph (B) to read as follows:

"(B) to any articles, materials, or supplies procured pursuant to a reciprocal defense procurement memorandum of understanding (as described in section 8304 of this title), or a trade agreement or least developed country designation described in subpart 25.400 of the Federal Acquisition Regulation; and"; and

(2) in section 8303—

(A) in subsection (b)—

(i) by striking "department or independent establishment" each place it appears and inserting "Federal agency";

(ii) by amending subparagraph (B) of paragraph (1) to read as follows:

"(B) to any articles, materials, or supplies procured pursuant to a reciprocal defense procurement memorandum of understanding (as described in section 8304), or a trade agreement or least developed country designation described in subpart 25.400 of the Federal Acquisition Regulation; and"; and

(iii) in paragraph (3)—

(I) in the heading, by striking "INCONSISTENT WITH PUBLIC INTEREST" and inserting "WAIVER AUTHORITY"; and

(II) by striking "their purchase to be inconsistent with the public interest or their cost to be unreasonable" and inserting "their acquisition to be inconsistent with the public interest, their cost to be unreasonable, or that the articles, materials, or supplies of the class or kind to be used, or the articles, materials, or supplies from which they are manufactured, are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality"; and

(B) in subsection (d), as redesignated by subsection (b)(1) of this section, by striking "department, bureau, agency, or independent establishment" each place it appears and inserting "Federal agency".

(f) EXCLUSION FROM INFLATION ADJUSTMENT OF ACQUISITION-RELATED DOLLAR THRESHOLDS.—Subparagraph (A) of section 1908(b)(2) of title 41, United States Code, is amended by striking "chapter 67" and inserting "chapters 67 and 83".

SEC. 70923. MADE IN AMERICA OFFICE.

(a) ESTABLISHMENT.—The Director of the Office of Management and Budget shall establish within the Office of Management and Budget an office to be known as the "Made in America Office". The head of the office shall be appointed by the Director of the Office of Management and Budget (in this section referred to as the "Made in America Director").

(b) DUTIES.—The Made in America Director shall have the following duties:

(1) Maximize and enforce compliance with domestic preference statutes.

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(2) Develop and implement procedures to review waiver requests or inapplicability requests related to domestic preference statutes.

(3) Prepare the reports required under subsections (c) and (e).

(4) Ensure that Federal contracting personnel, financial assistance personnel, and non-Federal recipients are regularly trained on obligations under the Buy American Act and other agency-specific domestic preference statutes.

(5) Conduct the review of reciprocal defense agreements required under subsection (d).

(6) Ensure that Federal agencies, Federal financial assistance recipients, and the Hollings Manufacturing Extension Partnership partner with each other to promote compliance with domestic preference statutes.

(7) Support executive branch efforts to develop and sustain a domestic supply base to meet Federal procurement requirements.

(c) OFFICE OF MANAGEMENT AND BUDGET REPORT.—Not later than 1 year after the date of the enactment of this Act, the Director of the Office of Management and Budget, working through the Made in America Director, shall report to the relevant congressional committees on the extent to which, in each of the three fiscal years prior to the date of enactment of this Act, articles, materials, or supplies acquired by the Federal Government were mined, produced, or manufactured outside the United States. Such report shall include for each Federal agency the following:

(1) A summary of total procurement funds expended on articles, materials, and supplies mined, produced, or manufactured—

(A) inside the United States;

(B) outside the United States; and

(C) outside the United States—

(i) under each category of waiver under the Buy American Act;

(ii) under each category of exception under such chapter; and

(iii) for each country that mined, produced, or manufactured such articles, materials, and supplies.

(2) For each fiscal year covered by the report—

(A) the dollar value of any articles, materials, or supplies that were mined, produced, or manufactured outside the United States, in the aggregate and by country;

(B) an itemized list of all waivers made under the Buy American Act with respect to articles, materials, or supplies, where available, and the country where such articles, materials, or supplies were mined, produced, or manufactured;

(C) if any articles, materials, or supplies were acquired from entities that mine, produce, or manufacture such articles, materials, or supplies outside the United States due to an exception (that is not the micro-purchase threshold exception described under section 8302(a)(2)(C) of title 41, United States Code), the specific exception that was used to purchase such articles, materials, or supplies; and

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(D) if any articles, materials, or supplies were acquired from entities that mine, produce, or manufacture such articles, materials, or supplies outside the United States pursuant to a reciprocal defense procurement memorandum of understanding (as described in section 8304 of title 41, United States Code), or a trade agreement or least developed country designation described in subpart 25.400 of the Federal Acquisition Regulation, a citation to such memorandum of understanding, trade agreement, or designation.

(3) A description of the methods used by each Federal agency to calculate the percentage domestic content of articles, materials, and supplies mined, produced, or manufactured in the United States.

(d) REVIEW OF RECIPROCAL DEFENSE AGREEMENTS.—

(1) REVIEW OF PROCESS.—Not later than 180 days after the date of the enactment of this Act, the Made in America Director shall review the Department of Defense's use of reciprocal defense agreements to determine if domestic entities have equal and proportional access and report the findings of the review to the Director of the Office of Management and Budget, the Secretary of Defense, and the Secretary of State.

(2) REVIEW OF RECIPROCAL PROCUREMENT MEMORANDA OF UNDERSTANDING.—The Made in America Director shall review reciprocal procurement memoranda of understanding entered into after the date of the enactment of this Act between the Department of Defense and its counterparts in foreign governments to assess whether domestic entities will have equal and proportional access under the memoranda of understanding and report the findings of the review to the Director of the Office of Management and Budget, the Secretary of Defense, and the Secretary of State.

(e) REPORT ON USE OF MADE IN AMERICA LAWS.—The Made in America Director shall submit to the relevant congressional committees a summary of each report on the use of Made in America Laws received by the Made in America Director pursuant to section 11 of Executive Order 14005, dated January 25, 2021 (relating to ensuring the future is made in all of America by all of America's workers) not later than 90 days after the date of the enactment of this Act or receipt of the reports required under section 11 of such Executive Order, whichever is later.

(f) DOMESTIC PREFERENCE STATUTE DEFINED.—In this section, the term "domestic preference statute" means any of the following:

(1) the Buy American Act;

(2) a Buy America law (as that term is defined in section 70916(a));

(3) the Berry Amendment;

(4) section 604 of the American Recovery and Reinvestment Act of 2009 (6 U.S.C. 453b) (commonly referred to as the "Kissell amendment");

(5) section 2533b of title 10 (commonly referred to as the "specialty metals clause");

(6) laws requiring domestic preference for maritime transport, including the Merchant Marine Act, 1920 (Public Law 66–261), commonly known as the "Jones Act"; and

(7) any other law, regulation, rule, or executive order relating to Federal financial assistance awards or Federal

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procurement, that requires, or provides a preference for, the purchase or acquisition of goods, products, or materials produced in the United States, including iron, steel, construction material, and manufactured goods offered in the United States.

SEC. 70924. HOLLINGS MANUFACTURING EXTENSION PARTNERSHIP ACTIVITIES.

(a) USE OF HOLLINGS MANUFACTURING EXTENSION PARTNERSHIP TO REFER NEW BUSINESSES TO CONTRACTING OPPORTUNITIES.—The head of each Federal agency shall work with the Director of the Hollings Manufacturing Extension Partnership, as necessary, to ensure businesses participating in this Partnership are aware of their contracting opportunities.

(b) AUTOMATIC ENROLLMENT IN GSA ADVANTAGE!.—The Administrator of the General Services Administration and the Secretary of Commerce, acting through the Under Secretary of Commerce for Standards and Technology, shall jointly ensure that each business that participates in the Hollings Manufacturing Extension Partnership is automatically enrolled in General Services Administration Advantage!.

SEC. 70925. UNITED STATES OBLIGATIONS UNDER INTERNATIONAL AGREEMENTS.

This part, and the amendments made by this part, shall be applied in a manner consistent with United States obligations under international agreements.

SEC. 70926. DEFINITIONS.

In this part:

(1) BERRY AMENDMENT.—The term "Berry Amendment" means section 2533a of title 10, United States Code.

(2) BUY AMERICAN ACT.—The term "Buy American Act" means chapter 83 of title 41, United States Code.

(3) FEDERAL AGENCY.—The term "Federal agency" has the meaning given the term "executive agency" in section 133 of title 41, United States Code.

(4) RELEVANT CONGRESSIONAL COMMITTEES.—The term "relevant congressional committees" means—

(A) the Committee on Homeland Security and Governmental Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Environment and Public Works, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Armed Services of the Senate; and

(B) the Committee on Oversight and Reform, the Committee on Armed Services, and the Committee on Transportation and Infrastructure of the House of Representatives.

(5) WAIVER.—The term "waiver", with respect to the acquisition of an article, material, or supply for public use, means the inapplicability of chapter 83 of title 41, United States Code, to the acquisition by reason of any of the following determinations under section 8302(a)(1) or 8303(b) of such title:

(A) A determination by the head of the Federal agency concerned that the acquisition is inconsistent with the public interest.

(B) A determination by the head of the Federal agency concerned that the cost of the acquisition is unreasonable.

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(C) A determination by the head of the Federal agency concerned that the article, material, or supply is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

SEC. 70927. PROSPECTIVE AMENDMENTS TO INTERNAL CROSS-REFERENCES.

(a) SPECIALTY METALS CLAUSE REFERENCE.—Section 70923(f)(5) is amended by striking "section 2533b" and inserting "section 4863".

(b) BERRY AMENDMENT REFERENCE.—Section 70926(1) is amended by striking "section 2533a" and inserting "section 4862".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2022.

Subtitle B—BuyAmerican.gov

SEC. 70931. SHORT TITLE.

This subtitle may be cited as the "BuyAmerican.gov Act of 2021".

SEC. 70932. DEFINITIONS.

In this subtitle:

(1) BUY AMERICAN LAW.—The term "Buy American law" means any law, regulation, Executive order, or rule relating to Federal contracts, grants, or financial assistance that requires or provides a preference for the purchase or use of goods, products, or materials mined, produced, or manufactured in the United States, including—

(A) chapter 83 of title 41, United States Code (commonly referred to as the "Buy American Act");

(B) section 5323(j) of title 49, United States Code;

(C) section 313 of title 23, United States Code;

(D) section 50101 of title 49, United States Code;

(E) section 24405 of title 49, United States Code;

(F) section 608 of the Federal Water Pollution Control Act (33 U.S.C. 1388);

(G) section 1452(a)(4) of the Safe Drinking Water Act (42 U.S.C. 300j–12(a)(4));

(H) section 5035 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 3914);

(I) section 2533a of title 10, United States Code (commonly referred to as the "Berry Amendment"); and

(J) section 2533b of title 10, United States Code.

(2) EXECUTIVE AGENCY.—The term "executive agency" has the meaning given the term "agency" in paragraph (1) of section 3502 of title 44, United States Code, except that it does not include an independent regulatory agency, as that term is defined in paragraph (5) of such section.

(3) BUY AMERICAN WAIVER.—The term "Buy American waiver" refers to an exception to or waiver of any Buy American law, or the terms and conditions used by an agency in granting an exception to or waiver from Buy American laws.

SEC. 70933. SENSE OF CONGRESS ON BUYING AMERICAN.

It is the sense of Congress that—

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(1) every executive agency should maximize, through terms and conditions of Federal financial assistance awards and Federal procurements, the use of goods, products, and materials produced in the United States and contracts for outsourced government service contracts to be performed by United States nationals;

(2) every executive agency should scrupulously monitor, enforce, and comply with Buy American laws, to the extent they apply, and minimize the use of waivers; and

(3) every executive agency should use available data to routinely audit its compliance with Buy American laws.

SEC. 70934. ASSESSMENT OF IMPACT OF FREE TRADE AGREEMENTS.

Not later than 150 days after the date of the enactment of this Act, the Secretary of Commerce, the United States Trade Representative, and the Director of the Office of Management and Budget shall assess the impacts in a publicly available report of all United States free trade agreements, the World Trade Organization Agreement on Government Procurement, and Federal permitting processes on the operation of Buy American laws, including their impacts on the implementation of domestic procurement preferences.

SEC. 70935. JUDICIOUS USE OF WAIVERS.

(a) IN GENERAL.—To the extent permitted by law, a Buy American waiver that is determined by an agency head or other relevant official to be in the public interest shall be construed to ensure the maximum utilization of goods, products, and materials produced in the United States.

(b) PUBLIC INTEREST WAIVER DETERMINATIONS.—To the extent permitted by law, determination of public interest waivers shall be made by the head of the agency with the authority over the Federal financial assistance award or Federal procurement under consideration.

SEC. 70936. ESTABLISHMENT OF BUYAMERICAN.GOV WEBSITE.

(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Administrator of General Services shall establish an Internet website with the address BuyAmerican.gov that will be publicly available and free to access. The website shall include information on all waivers of and exceptions to Buy American laws since the date of the enactment of this Act that have been requested, are under consideration, or have been granted by executive agencies and be designed to enable manufacturers and other interested parties to easily identify waivers. The website shall also include the results of routine audits to determine data errors and Buy American law violations after the award of a contract. The website shall provide publicly available contact information for the relevant contracting agencies.

(b) UTILIZATION OF EXISTING WEBSITE.—The requirements of subsection (a) may be met by utilizing an existing website, provided that the address of that website is BuyAmerican.gov.

SEC. 70937. WAIVER TRANSPARENCY AND STREAMLINING FOR CONTRACTS.

(a) COLLECTION OF INFORMATION.—The Administrator of General Services, in consultation with the heads of relevant agencies, shall develop a mechanism to collect information on requests to

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invoke a Buy American waiver for a Federal contract, utilizing existing reporting requirements whenever possible, for purposes of providing early notice of possible waivers via the website established under section 70936.

(b) WAIVER TRANSPARENCY AND STREAMLINING.—

(1) REQUIREMENT.—Prior to granting a request to waive a Buy American law, the head of an executive agency shall submit a request to invoke a Buy American waiver to the Administrator of General Services, and the Administrator of General Services shall make the request available on or through the public website established under section 70936 for public comment for not less than 15 days.

(2) EXCEPTION.—The requirement under paragraph (1) does not apply to a request for a Buy American waiver to satisfy an urgent contracting need in an unforeseen and exigent circumstance.

(c) INFORMATION AVAILABLE TO THE EXECUTIVE AGENCY CONCERNING THE REQUEST.—

(1) REQUIREMENT.—No Buy American waiver for purposes of awarding a contract may be granted if, in contravention of subsection (b)—

(A) information about the waiver was not made available on the website under section 70936; or

(B) no opportunity for public comment concerning the request was granted.

(2) SCOPE.—Information made available to the public concerning the request included on the website described in section 70936 shall properly and adequately document and justify the statutory basis cited for the requested waiver. Such information shall include—

(A) a detailed justification for the use of goods, products, or materials mined, produced, or manufactured outside the United States;

(B) for requests citing unreasonable cost as the statutory basis of the waiver, a comparison of the cost of the domestic product to the cost of the foreign product or a comparison of the overall cost of the project with domestic products to the overall cost of the project with foreign-origin products or services, pursuant to the requirements of the applicable Buy American law, except that publicly available cost comparison data may be provided in lieu of proprietary pricing information;

(C) for requests citing the public interest as the statutory basis for the waiver, a detailed written statement, which shall include all appropriate factors, such as potential obligations under international agreements, justifying why the requested waiver is in the public interest; and

(D) a certification that the procurement official or assistance recipient made a good faith effort to solicit bids for domestic products supported by terms included in requests for proposals, contracts, and nonproprietary communications with the prime contractor.

(d) NONAVAILABILITY WAIVERS.—

(1) IN GENERAL.—Except as provided under paragraph (2), for a request citing nonavailability as the statutory basis for a Buy American waiver, an executive agency shall provide an explanation of the procurement official's efforts to procure

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a product from a domestic source and the reasons why a domestic product was not available from a domestic source. Those explanations shall be made available on BuyAmerican.gov prior to the issuance of the waiver, and the agency shall consider public comments regarding the availability of the product before making a final determination.

(2) EXCEPTION.—An explanation under paragraph (1) is not required for a product the nonavailability of which is established by law or regulation.

SEC. 70938. COMPTROLLER GENERAL REPORT.

Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report describing the implementation of this subtitle, including recommendations for any legislation to improve the collection and reporting of information regarding waivers of and exceptions to Buy American laws.

SEC. 70939. RULES OF CONSTRUCTION.

(a) DISCLOSURE REQUIREMENTS.—Nothing in this subtitle shall be construed as preempting, superseding, or otherwise affecting the application of any disclosure requirement or requirements otherwise provided by law or regulation.

(b) ESTABLISHMENT OF SUCCESSOR INFORMATION SYSTEMS.—Nothing in this subtitle shall be construed as preventing or otherwise limiting the ability of the Administrator of General Services to move the data required to be included on the website established under subsection (a) to a successor information system. Any such information system shall include a reference to BuyAmerican.gov.

SEC. 70940. CONSISTENCY WITH INTERNATIONAL AGREEMENTS.

This subtitle shall be applied in a manner consistent with United States obligations under international agreements.

SEC. 70941. PROSPECTIVE AMENDMENTS TO INTERNAL CROSS-REFERENCES.

(a) IN GENERAL.—Section 70932(1) is amended—

(1) in subparagraph (I), by striking "section 2533a" and inserting "section 4862"; and

(2) in subparagraph (J), by striking "section 2533b" and inserting "section 4863".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 2022.

Subtitle C—Make PPE in America

SEC. 70951. SHORT TITLE.

This subtitle may be cited as the "Make PPE in America Act".

SEC. 70952. FINDINGS.

Congress makes the following findings:

(1) The COVID–19 pandemic has exposed the vulnerability of the United States supply chains for, and lack of domestic production of, personal protective equipment (PPE).

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(2) The United States requires a robust, secure, and wholly domestic PPE supply chain to safeguard public health and national security.

(3) Issuing a strategy that provides the government's anticipated needs over the next three years will enable suppliers to assess what changes, if any, are needed in their manufacturing capacity to meet expected demands.

(4) In order to foster a domestic PPE supply chain, United States industry needs a strong and consistent demand signal from the Federal Government providing the necessary certainty to expand production capacity investment in the United States.

(5) In order to effectively incentivize investment in the United States and the re-shoring of manufacturing, long-term contracts must be no shorter than three years in duration.

(6) To accomplish this aim, the United States should seek to ensure compliance with its international obligations, such as its commitments under the World Trade Organization's Agreement on Government Procurement and its free trade agreements, including by invoking any relevant exceptions to those agreements, especially those related to national security and public health.

(7) The United States needs a long-term investment strategy for the domestic production of PPE items critical to the United States national response to a public health crisis, including the COVID–19 pandemic.

SEC. 70953. REQUIREMENT OF LONG-TERM CONTRACTS FOR DOMESTICALLY MANUFACTURED PERSONAL PROTECTIVE EQUIPMENT.

(a) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on Homeland Security and Governmental Affairs, the Committee on Health, Education, Labor, and Pensions, the Committee on Finance, and the Committee on Veterans' Affairs of the Senate; and

(B) the Committee on Homeland Security, the Committee on Oversight and Reform, the Committee on Energy and Commerce, the Committee on Ways and Means, and the Committee on Veterans' Affairs of the House of Representatives.

(2) COVERED SECRETARY.—The term "covered Secretary" means the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Secretary of Veterans Affairs.

(3) PERSONAL PROTECTIVE EQUIPMENT.—The term "personal protective equipment" means surgical masks, respirator masks and powered air purifying respirators and required filters, face shields and protective eyewear, gloves, disposable and reusable surgical and isolation gowns, head and foot coverings, and other gear or clothing used to protect an individual from the transmission of disease.

(4) UNITED STATES.—The term "United States" means the 50 States, the District of Columbia, and the possessions of the United States.

(b) CONTRACT REQUIREMENTS FOR DOMESTIC PRODUCTION.—Beginning 90 days after the date of the enactment of this Act,

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in order to ensure the sustainment and expansion of personal protective equipment manufacturing in the United States and meet the needs of the current pandemic response, any contract for the procurement of personal protective equipment entered into by a covered Secretary, or a covered Secretary's designee, shall—

(1) be issued for a duration of at least 2 years, plus all option periods necessary, to incentivize investment in the production of personal protective equipment and the materials and components thereof in the United States; and

(2) be for personal protective equipment, including the materials and components thereof, that is grown, reprocessed, reused, or produced in the United States.

(c) ALTERNATIVES TO DOMESTIC PRODUCTION.—The requirement under subsection (b) shall not apply to an item of personal protective equipment, or component or material thereof if, after maximizing to the extent feasible sources consistent with subsection (b), the covered Secretary—

(1) maximizes sources for personal protective equipment that is assembled outside the United States containing only materials and components that are grown, reprocessed, reused, or produced in the United States; and

(2) certifies every 120 days that it is necessary to procure personal protective equipment under alternative procedures to respond to the immediate needs of a public health emergency.

(d) AVAILABILITY EXCEPTION.—

(1) IN GENERAL.—Subsections (b) and (c) shall not apply to an item of personal protective equipment, or component or material thereof—

(A) that is, or that includes, a material listed in section 25.104 of the Federal Acquisition Regulation as one for which a non-availability determination has been made; or

(B) as to which the covered Secretary determines that a sufficient quantity of a satisfactory quality that is grown, reprocessed, reused, or produced in the United States cannot be procured as, and when, needed at United States market prices.

(2) CERTIFICATION REQUIREMENT.—The covered Secretary shall certify every 120 days that the exception under paragraph (1) is necessary to meet the immediate needs of a public health emergency.

(e) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Director of the Office of Management and Budget, in consultation with the covered Secretaries, shall submit to the chairs and ranking members of the appropriate congressional committees a report on the procurement of personal protective equipment.

(2) ELEMENTS.—The report required under paragraph (1) shall include the following elements:

(A) The United States long-term domestic procurement strategy for PPE produced in the United States, including strategies to incentivize investment in and maintain United States supply chains for all PPE sufficient to meet the needs of the United States during a public health emergency.

(B) An estimate of long-term demand quantities for all PPE items procured by the United States.

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(C) Recommendations for congressional action required to implement the United States Government's procurement strategy.

(D) A determination whether all notifications, amendments, and other necessary actions have been completed to bring the United States existing international obligations into conformity with the statutory requirements of this subtitle.

(f) AUTHORIZATION OF TRANSFER OF EQUIPMENT.—

(1) IN GENERAL.—A covered Secretary may transfer to the Strategic National Stockpile established under section 319F–2 of the Public Health Service Act (42 U.S.C. 247d–6b) any excess personal protective equipment acquired under a contract executed pursuant to subsection (b).

(2) TRANSFER OF EQUIPMENT DURING A PUBLIC HEALTH EMERGENCY.—

(A) AMENDMENT.—Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.) is amended by adding at the end the following:

"SEC. 529. TRANSFER OF EQUIPMENT DURING A PUBLIC HEALTH EMERGENCY.

"(a) AUTHORIZATION OF TRANSFER OF EQUIPMENT.—During a public health emergency declared by the Secretary of Health and Human Services under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), the Secretary, at the request of the Secretary of Health and Human Services, may transfer to the Department of Health and Human Services, on a reimbursable basis, excess personal protective equipment or medically necessary equipment in the possession of the Department.

"(b) DETERMINATION BY SECRETARIES.—

"(1) IN GENERAL.—In carrying out this section—

"(A) before requesting a transfer under subsection (a), the Secretary of Health and Human Services shall determine whether the personal protective equipment or medically necessary equipment is otherwise available; and

"(B) before initiating a transfer under subsection (a), the Secretary, in consultation with the heads of each component within the Department, shall—

"(i) determine whether the personal protective equipment or medically necessary equipment requested to be transferred under subsection (a) is excess equipment; and

"(ii) certify that the transfer of the personal protective equipment or medically necessary equipment will not adversely impact the health or safety of officers, employees, or contractors of the Department.

"(2) NOTIFICATION.—The Secretary of Health and Human Services and the Secretary shall each submit to Congress a notification explaining the determination made under subparagraphs (A) and (B), respectively, of paragraph (1).

"(3) REQUIRED INVENTORY.—

"(A) IN GENERAL.—The Secretary shall—

"(i) acting through the Chief Medical Officer of the Department, maintain an inventory of all personal protective equipment and medically necessary equipment in the possession of the Department; and

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"(ii) make the inventory required under clause (i) available, on a continual basis, to—

"(I) the Secretary of Health and Human Services; and

"(II) the Committee on Appropriations and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Appropriations and the Committee on Homeland Security of the House of Representatives.

"(B) FORM.—Each inventory required to be made available under subparagraph (A) shall be submitted in unclassified form, but may include a classified annex.".

(B) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2135) is amended by inserting after the item relating to section 528 the following:

"Sec. 529. Transfer of equipment during a public health emergency.".

(3) STRATEGIC NATIONAL STOCKPILE.—Section 319F–2(a) of the Public Health Service Act (42 U.S.C. 247d–6b(a)) is amended by adding at the end the following:

"(6) TRANSFERS OF ITEMS.—The Secretary, in coordination with the Secretary of Homeland Security, may sell drugs, vaccines and other biological products, medical devices, or other supplies maintained in the stockpile under paragraph (1) to a Federal agency or private, nonprofit, State, local, tribal, or territorial entity for immediate use and distribution, provided that any such items being sold are—

"(A) within 1 year of their expiration date; or

"(B) determined by the Secretary to no longer be needed in the stockpile due to advances in medical or technical capabilities.".

(g) COMPLIANCE WITH INTERNATIONAL AGREEMENTS.—The President or the President's designee shall take all necessary steps, including invoking the rights of the United States under Article III of the World Trade Organization's Agreement on Government Procurement and the relevant exceptions of other relevant agreements to which the United States is a party, to ensure that the international obligations of the United States are consistent with the provisions of this subtitle.

TITLE X—ASSET CONCESSIONS

SEC. 71001. ASSET CONCESSIONS.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—Chapter 6 of title 23, United States Code, is amended by adding at the end the following:

"§ 611. Asset concessions and innovative finance assistance

"(a) DEFINITIONS.—In this section:

"(1) APPROVED INFRASTRUCTURE ASSET.—The term 'approved infrastructure asset' means—

"(A) a project (as defined in section 601(a)); and

"(B) a group of projects (as defined in section 601(a)) considered together in a single asset concession or long-term lease to a concessionaire by 1 or more eligible entities.

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"(2) ASSET CONCESSION.—The term 'asset concession' means a contract between an eligible entity and a concessionaire—

"(A) under which—

"(i) the eligible entity agrees to enter into a concession agreement or long-term lease with the concessionaire relating to an approved infrastructure asset owned, controlled, or maintained by the eligible entity;

"(ii) as consideration for the agreement or lease described in clause (i), the concessionaire agrees—

"(I) to provide to the eligible entity 1 or more asset concession payments; and

"(II) to maintain or exceed the condition, performance, and service level of the approved infrastructure asset, as compared to that condition, performance, and service level on the date of execution of the agreement or lease; and

"(iii) the eligible entity and the concessionaire agree that the costs for a fiscal year of the agreement or lease, and any project carried out under the agreement or lease, shall not be shifted to any taxpayer the annual household income of whom is less than $400,000 per year, including through taxes, user fees, tolls, or any other measure, for use of an approved infrastructure asset; and

"(B) the terms of which do not include any noncompete or exclusivity restriction (or any other, similar restriction) on the approval of another project.

"(3) ASSET CONCESSION PAYMENT.—The term 'asset concession payment' means a payment that—

"(A) is made by a concessionaire to an eligible entity for fair market value that is determined as part of the asset concession; and

"(B) may be—

"(i) a payment made at the financial close of an asset concession; or

"(ii) a series of payments scheduled to be made for—

"(I) a fixed period; or

"(II) the term of an asset concession.

"(4) CONCESSIONAIRE.—The term 'concessionaire' means a private individual or a private or publicly chartered corporation or entity that enters into an asset concession with an eligible entity.

"(5) ELIGIBLE ENTITY.—

"(A) IN GENERAL.—The term 'eligible entity' means an entity described in subparagraph (B) that—

"(i) owns, controls, or maintains an approved infrastructure asset; and

"(ii) has the legal authority to enter into a contract to transfer ownership, maintenance, operations, revenues, or other benefits and responsibilities for an approved infrastructure asset.

"(B) ENTITIES DESCRIBED.—An entity referred to in subparagraph (A) is any of the following:

"(i) A State.

"(ii) A Tribal government.

"(iii) A unit of local government.

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"(iv) An agency or instrumentality of a State, Tribal government, or unit of local government.

"(v) A special purpose district or public authority.

"(b) ESTABLISHMENT.—The Secretary shall establish a program 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.

"(c) APPLICATIONS.—To be eligible to receive a grant under this section, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(d) ELIGIBLE ACTIVITIES.—

"(1) TECHNICAL ASSISTANCE GRANTS.—An eligible entity may use amounts made available from a grant under this section for technical assistance to build the organizational capacity of the eligible entity to develop, review, or enter into an asset concession, including for—

"(A) identifying appropriate assets or projects for asset concessions;

"(B) soliciting and negotiating asset concessions, including hiring staff in public agencies;

"(C) conducting a value-for-money analysis, or a comparable analysis, to evaluate the comparative benefits of asset concessions and public debt or other procurement methods;

"(D) evaluating options for the structure and use of asset concession payments;

"(E) evaluating and publicly presenting the risks and benefits of all contract provisions for the purpose of transparency and accountability;

"(F) identifying best practices to protect the public interest and priorities;

"(G) identifying best practices for managing transportation demand and mobility along a corridor, including through provisions of the asset concession, to facilitate transportation demand management strategies along the corridor that is subject to the asset concession; and

"(H) integrating and coordinating pricing, data, and fare collection with other regional operators that exist or may be developed.

"(2) EXPERT SERVICES.—An eligible entity seeking to leverage public and private funding in connection with the development of an early-stage approved infrastructure asset, including in the development of alternative approaches to project delivery or procurement, may use amounts made available from a grant under this section to retain the services of an expert firm to provide to the eligible entity direct project level assistance, which services may include—

"(A) project planning, feasibility studies, revenue forecasting, economic assessments and cost-benefit analyses, public benefit studies, value-for-money analyses, business case development, lifecycle cost analyses, risk assessment,

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financing and funding options analyses, procurement alternatives analyses, statutory and regulatory framework analyses and other pre-procurement and pre-construction activities;

"(B) financial and legal planning (including the identification of statutory authorization, funding, and financing options);

"(C) early assessment of permitting, environmental review, and regulatory processes and costs; and

"(D) assistance with entering into an asset concession.

"(e) DISTRIBUTION.—

"(1) MAXIMUM AMOUNT.—

"(A) TECHNICAL ASSISTANCE GRANTS.—The maximum amount of a technical assistance grant under subsection (d)(1) shall be $2,000,000.

"(B) EXPERT SERVICES.—The maximum amount of the value of expert services retained by an eligible entity under subsection (d)(2) shall be $2,000,000.

"(2) COST SHARING.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of the cost of an activity carried out under this section may be up to 100 percent.

"(B) CERTAIN PROJECTS.—If the amount of the grant provided to an eligible entity under this section is more than $1,000,000, the Federal share of the cost of an activity carried out using grant amounts in excess of $1,000,000 shall be 50 percent.

"(3) STATEWIDE MAXIMUM.—The aggregate amount made available under this section to eligible entities within a State shall not exceed, on a cumulative basis for all eligible entities within the State during any 3-year period, $4,000,000.

"(f) REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary shall ensure that, as a condition of receiving a grant under this section, for any asset concession for which the grant provides direct assistance—

"(A) the asset concession shall not prohibit, discourage, or make it more difficult for an eligible entity to construct new infrastructure, to provide or expand transportation services, or to manage associated infrastructure in publicly beneficial ways, along a transportation corridor or in the proximity of a transportation facility that was a part of the asset concession;

"(B) the eligible entity shall have adopted binding rules to publish all major business terms of the proposed asset concession not later than the date that is 30 days before entering into the asset concession, to enable public review, including a certification of public interest based on the results of an assessment under subparagraph (D);

"(C) the asset concession shall not result in displacement, job loss, or wage reduction for the existing workforce of the eligible entity or other public entities;

"(D) the eligible entity or the concessionaire shall carry out a value-for-money analysis, or similar assessment, to compare the aggregate costs and benefits to the eligible entity of the asset concession against alternative options to determine whether the asset concession generates additional public benefits and serves the public interest;

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"(E) the full amount of any asset concession payment received by the eligible entity under the asset concession, less any amount paid for transaction costs relating to the asset concession, shall be used to pay infrastructure costs of the eligible entity; and

"(F) the terms of the asset concession shall not result in any increase in costs under the asset concession being shifted to taxpayers the annual household income of whom is less than $400,000 per year, including through taxes, user fees, tolls, or any other measure, for use of an approved infrastructure asset.

"(2) AUDIT.—Not later than 3 years after the date on which an eligible entity enters into an asset concession as a result of a grant under this section—

"(A) the eligible entity shall hire an independent auditor to evaluate the performance of the concessionaire based on the requirements described in paragraph (1); and

"(B) the independent auditor shall submit to the eligible entity, and make publicly available, a report describing the results of the audit under subparagraph (A).

"(3) TREATMENT.—Unless otherwise provided under paragraph (1), the Secretary shall not, as a condition of receiving a grant under this section, prohibit or otherwise prevent an eligible entity from entering into, or receiving any asset concession payment under, an asset concession for an approved infrastructure asset owned, controlled, or maintained by the eligible entity.

"(4) APPLICABILITY OF FEDERAL LAWS.—Nothing in this section exempts a concessionaire or an eligible entity from a compliance obligation with respect to any applicable Federal or State law that would otherwise apply to the concessionaire, the eligible entity, or an approved infrastructure asset.

"(g) FUNDING.—

"(1) IN GENERAL.—On October 1, 2021, and on each October 1 thereafter through October 1, 2025, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this section $20,000,000, to remain available until expended.

"(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.".

(2) CLERICAL AMENDMENT.—The analysis for chapter 6 of title 23, United States Code, is amended by adding at the end the following:

"611. Asset concessions and innovative finance assistance.".

(b) ASSET RECYCLING REPORT.—Not later than August 1, 2024, the Secretary shall submit to Congress a report that includes—

(1) an analysis of any impediments in applicable laws, regulations, and practices to increased use of public-private partnerships and private investment in transportation improvements; and

(2) proposals for approaches that address those impediments while continuing to protect the public interest and any public investment in transportation improvements.

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TITLE XI—CLEAN SCHOOL BUSES AND FERRIES

SEC. 71101. CLEAN SCHOOL BUS PROGRAM.

Section 741 of the Energy Policy Act of 2005 (42 U.S.C. 16091) is amended to read as follows:

"SEC. 741. CLEAN SCHOOL BUS PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(2) ALTERNATIVE FUEL.—The term 'alternative fuel' means liquefied natural gas, compressed natural gas, hydrogen, propane, or biofuels.

"(3) CLEAN SCHOOL BUS.—The term 'clean school bus' means a school bus that—

"(A) the Administrator certifies reduces emissions and is operated entirely or in part using an alternative fuel; or

"(B) is a zero-emission school bus.

"(4) ELIGIBLE CONTRACTOR.—The term 'eligible contractor' means a contractor that is a for-profit, not-for-profit, or nonprofit entity that has the capacity—

"(A) to sell clean school buses, zero-emission school buses, charging or fueling infrastructure, or other equipment needed to charge, fuel, or maintain clean school buses or zero-emission school buses, to individuals or entities that own a school bus or a fleet of school buses; or

"(B) to arrange financing for such a sale.

"(5) ELIGIBLE RECIPIENT.—

"(A) IN GENERAL.—Subject to subparagraph (B), the term 'eligible recipient' means—

"(i) 1 or more local or State governmental entities responsible for—

"(I) providing school bus service to 1 or more public school systems; or

"(II) the purchase of school buses;

"(ii) an eligible contractor;

"(iii) a nonprofit school transportation association; or

"(iv) an Indian Tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304)), Tribal organization (as defined in that section), or tribally controlled school (as defined in section 5212 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2511)) that is responsible for—

"(I) providing school bus service to 1 or more Bureau-funded schools (as defined in section 1141 of the Education Amendments of 1978 (25 U.S.C. 2021)); or

"(II) the purchase of school buses.

"(B) SPECIAL REQUIREMENTS.—In the case of eligible recipients identified under clauses (ii) and (iii) of subparagraph (A), the Administrator shall establish timely and appropriate requirements for notice and shall establish

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timely and appropriate requirements for approval by the public school systems that would be served by buses purchased using award funds made available under this section.

"(6) HIGH-NEED LOCAL EDUCATIONAL AGENCY.—The term 'high-need local educational agency' means a local educational agency (as defined in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) that is among the local educational agencies in the applicable State with high percentages of children counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)), on the basis of the most recent satisfactory data available, as determined by the Secretary of Education (or, for a local educational agency for which no such data is available, such other data as the Secretary of Education determines to be satisfactory).

"(7) SCHOOL BUS.—The term 'school bus' has the meaning given the term 'schoolbus' in section 30125(a) of title 49, United States Code.

"(8) ZERO-EMISSION SCHOOL BUS.—The term 'zero-emission school bus' means a school bus that is certified by the Administrator to have a drivetrain that produces, under any possible operational mode or condition, zero exhaust emission of—

"(A) any air pollutant that is listed pursuant to section 108(a) of the Clean Air Act (42 U.S.C. 7408(a)) (or any precursor to such an air pollutant); and

"(B) any greenhouse gas.

"(b) PROGRAM FOR REPLACEMENT OF EXISTING SCHOOL BUSES WITH CLEAN SCHOOL BUSES AND ZERO-EMISSION SCHOOL BUSES.—

"(1) ESTABLISHMENT.—The Administrator shall establish a program—

"(A) to award grants and rebates on a competitive basis to eligible recipients for the replacement of existing school buses with clean school buses;

"(B) to award grants and rebates on a competitive basis to eligible recipients for the replacement of existing school buses with zero-emission school buses;

"(C) to award contracts to eligible contractors to provide rebates for the replacement of existing school buses with clean school buses; and

"(D) to award contracts to eligible contractors to provide rebates for the replacement of existing school buses with zero-emission school buses.

"(2) ALLOCATION OF FUNDS.—Of the amounts made available for awards under paragraph (1) in a fiscal year, the Administrator shall award—

"(A) 50 percent to replace existing school buses with zero-emission school buses; and

"(B) 50 percent to replace existing school buses with clean school buses and zero-emission school buses.

"(3) CONSIDERATIONS.—In making awards under paragraph (2)(B), the Administrator shall take into account the following criteria and shall not give preference to any individual criterion:

"(A) Lowest overall cost of bus replacement.

"(B) Local conditions, including the length of bus routes and weather conditions.

"(C) Technologies that most reduce emissions.

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"(D) Whether funds will bring new technologies to scale or promote cost parity between old technology and new technology.

"(4) PRIORITY OF APPLICATIONS.—In making awards under paragraph (1), the Administrator may prioritize applicants that—

"(A) propose to replace school buses that serve—

"(i) a high-need local educational agency;

"(ii) a Bureau-funded school (as defined in section 1141 of the Education Amendments of 1978 (25 U.S.C. 2021)); or

"(iii) a local educational agency that receives a basic support payment under section 7003(b)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(1)) for children who reside on Indian land;

"(B) serve rural or low-income areas; or

"(C) propose to complement the assistance received through the award by securing additional sources of funding for the activities supported through the award, such as through—

"(i) public-private partnerships;

"(ii) grants from other entities; or

"(iii) issuance of school bonds.

"(5) USE OF SCHOOL BUS FLEET.—All clean school buses and zero-emission school buses acquired with funds provided under this section shall—

"(A) be operated as part of the school bus fleet for which the award was made for not less than 5 years;

"(B) be maintained, operated, and charged or fueled according to manufacturer recommendations or State requirements; and

"(C) not be manufactured or retrofitted with, or otherwise have installed, a power unit or other technology that creates air pollution within the school bus, such as an unvented diesel passenger heater.

"(6) AWARDS.—

"(A) IN GENERAL.—In making awards under paragraph (1), the Administrator may make awards for up to 100 percent of the costs for replacement of existing school buses with clean school buses, zero-emission school buses, and charging or fueling infrastructure.

"(B) STRUCTURING AWARDS.—In making an award under paragraph (1)(A), the Administrator shall decide whether to award a grant or rebate, or a combination thereof, based primarily on how best to facilitate replacing existing school buses with clean school buses or zero-emission school buses, as applicable.

"(7) DEPLOYMENT AND DISTRIBUTION.—

"(A) IN GENERAL.—The Administrator shall—

"(i) to the maximum extent practicable, achieve nationwide deployment of clean school buses and zero-emission school buses through the program under this section; and

"(ii) ensure a broad geographic distribution of awards.

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"(B) LIMITATION.—The Administrator shall ensure that the amount received by all eligible entities in a State from grants and rebates under this section does not exceed 10 percent of the amounts made available to carry out this section during a fiscal year.

"(8) ANNUAL REPORT.—Not later than January 31 of each year, the Administrator shall submit to Congress a report that evaluates the implementation of this section and describes—

"(A) the total number of applications received;

"(B) the quantity and amount of grants and rebates awarded and the location of the recipients of the grants and rebates;

"(C) the criteria used to select the recipients; and

"(D) any other information the Administrator considers appropriate.

"(c) EDUCATION AND OUTREACH.—

"(1) IN GENERAL.—Not later than 120 days after the date of enactment of the Infrastructure Investment and Jobs Act, the Administrator shall develop an education and outreach program to promote and explain the award program under this section.

"(2) COORDINATION WITH STAKEHOLDERS.—The education and outreach program under paragraph (1) shall be designed and conducted in conjunction with interested stakeholders.

"(3) COMPONENTS.—The education and outreach program under paragraph (1) shall—

"(A) inform potential award recipients on the process of applying for awards and fulfilling the requirements of awards;

"(B) describe the available technologies and the benefits of using the technologies;

"(C) explain the benefits and costs incurred by participating in the award program;

"(D) make available information regarding best practices, lessons learned, and technical and other information regarding—

"(i) clean school bus and zero-emission school bus acquisition and deployment;

"(ii) the build-out of associated infrastructure and advance planning with the local electricity supplier;

"(iii) workforce development, training, and Registered Apprenticeships that meet the requirements under parts 29 and 30 of title 29, Code of Federal Regulations (as in effect on December 1, 2019); and

"(iv) any other information that is necessary, as determined by the Administrator; and

"(E) include, as appropriate, information from the annual report required under subsection (b)(7).

"(d) ADMINISTRATIVE COSTS.—The Administrator may use, for the administrative costs of carrying out this section, not more than 3 percent of the amounts made available to carry out this section for any fiscal year.

"(e) REGULATIONS.—The Administrator shall have the authority to issue such regulations or other guidance, forms, instructions, and publications as may be necessary or appropriate to carry out the programs, projects, or activities authorized under this section, including to ensure that such programs, projects, or activities are

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completed in a timely and effective manner, result in emissions reductions, and maximize public health benefits.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this section, to remain available until expended, $1,000,000,000 for each of fiscal years 2022 through 2026, of which—

"(1) $500,000,000 shall be made available for the adoption of clean school buses and zero-emission school buses; and

"(2) $500,000,000 shall be made available for the adoption of zero-emission school buses.".

SEC. 71102. ELECTRIC OR LOW-EMITTING FERRY PILOT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ALTERNATIVE FUEL.—The term "alternative fuel" means—

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

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

(C) natural gas;

(D) liquefied petroleum gas;

(E) hydrogen;

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

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

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

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

(3) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

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

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

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

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

(A) with an aging fleet; and

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

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $50,000,000 for each of fiscal years 2022 through 2026.

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SEC. 71103. FERRY SERVICE FOR RURAL COMMUNITIES.

(a) DEFINITIONS.—In this section:

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

(2) ELIGIBLE SERVICE.—The term "eligible service" means a ferry service that—

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

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

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

(4) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

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

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

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

(e) TREATMENT.—

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

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

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

(g) OPERATING COSTS.—

(1) Section 147 of title 23, United States Code, is amended by adding at the end the following:

"(k) ADDITIONAL USES.—Notwithstanding any other provision of law, in addition to other uses of funds under this section, an eligible entity may use amounts made available under this section to pay the operating costs of the eligible entity.".

(2) Section 218(c) of title 23, United States Code (as amended by section 11116 of division A), is amended by inserting "operation, repair," after "purchase,".

SEC. 71104. EXPANDING THE FUNDING AUTHORITY FOR RENOVATING, CONSTRUCTING, AND EXPANDING CERTAIN FACILITIES.

Section 509 of the Indian Health Care Improvement Act (25 U.S.C. 1659) is amended—

(1) by striking "minor" before "renovations"; and

(2) by striking ", to assist" and all that follows through "standards".

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DIVISION H—REVENUE PROVISIONS

TITLE I—HIGHWAY TRUST FUND

SEC. 80101. EXTENSION OF HIGHWAY TRUST FUND EXPENDITURE AUTHORITY.

(a) HIGHWAY TRUST FUND.—Section 9503 of the Internal Revenue Code of 1986 is amended—

(1) by striking "October 1, 2021" in subsections (b)(6)(B), (c)(1), and (e)(3) and inserting "October 1, 2026", and

(2) by striking "Continuing Appropriations Act, 2021 and Other Extensions Act" in subsections (c)(1) and (e)(3) and inserting "Infrastructure Investment and Jobs Act".

(b) SPORT FISH RESTORATION AND BOATING TRUST FUND.—Section 9504 of such Code is amended—

(1) by striking "Continuing Appropriations Act, 2021 and Other Extensions Act" each place it appears in subsection (b)(2) and inserting "Infrastructure Investment and Jobs Act", and

(2) by striking "October 1, 2021" in subsection (d)(2) and inserting "October 1, 2026".

(c) LEAKING UNDERGROUND STORAGE TANK TRUST FUND.—Section 9508(e)(2) of such Code is amended by striking "October 1, 2021" and inserting "October 1, 2026".

SEC. 80102. EXTENSION OF HIGHWAY-RELATED TAXES.

(a) IN GENERAL.—

(1) Each of the following provisions of the Internal Revenue Code of 1986 is amended by striking "September 30, 2022" and inserting "September 30, 2028":

(A) Section 4041(a)(1)(C)(iii)(I).

(B) Section 4041(m)(1)(B).

(C) Section 4081(d)(1).

(2) Each of the following provisions of such Code is amended by striking "October 1, 2022" and inserting "October 1, 2028":

(A) Section 4041(m)(1)(A).

(B) Section 4051(c).

(C) Section 4071(d).

(D) Section 4081(d)(3).

(b) EXTENSION OF TAX, ETC., ON USE OF CERTAIN HEAVY VEHICLES.—Each of the following provisions of the Internal Revenue Code of 1986 is amended by striking "2023" each place it appears and inserting "2029":

(1) Section 4481(f).

(2) Subsections (c)(4) and (d) of section 4482.

(c) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) of the Internal Revenue Code of 1986 is amended—

(1) by striking "October 1, 2022" each place it appears and inserting "October 1, 2028";

(2) by striking "March 31, 2023" each place it appears and inserting "March 31, 2029"; and

(3) by striking "January 1, 2023" and inserting "January 1, 2029".

(d) EXTENSION OF CERTAIN EXEMPTIONS.—

(1) Section 4221(a) of the Internal Revenue Code of 1986 is amended by striking "October 1, 2022" and inserting "October 1, 2028".

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(2) Section 4483(i) of such Code is amended by striking "October 1, 2023" and inserting "October 1, 2029".

(e) EXTENSION OF TRANSFERS OF CERTAIN TAXES.—

(1) IN GENERAL.—Section 9503 of the Internal Revenue Code of 1986 is amended—

(A) in subsection (b)—

(i) by striking "October 1, 2022" each place it appears in paragraphs (1) and (2) and inserting "October 1, 2028";

(ii) by striking "OCTOBER 1, 2022" in the heading of paragraph (2) and inserting "OCTOBER 1, 2028";

(iii) by striking "September 30, 2022" in paragraph (2) and inserting "September 30, 2028"; and

(iv) by striking "July 1, 2023" in paragraph (2) and inserting "July 1, 2029"; and

(B) in subsection (c)(2), by striking "July 1, 2023" and inserting "July 1, 2029".

(2) MOTORBOAT AND SMALL-ENGINE FUEL TAX TRANSFERS.—

(A) IN GENERAL.—Paragraphs (3)(A)(i) and (4)(A) of section 9503(c) of such Code are each amended by striking "October 1, 2022" and inserting "October 1, 2028".

(B) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 200310 of title 54, United States Code, is amended—

(i) by striking "October 1, 2023" each place it appears and inserting "October 1, 2029"; and

(ii) by striking "October 1, 2022" and inserting "October 1, 2028".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2021.

SEC. 80103. FURTHER ADDITIONAL TRANSFERS TO TRUST FUND.

Subsection (f) of section 9503 of the Internal Revenue Code of 1986 is amended by redesignating paragraph (11) as paragraph (12) and inserting after paragraph (10) the following new paragraph:

"(11) FURTHER TRANSFERS TO TRUST FUND.—Out of money in the Treasury not otherwise appropriated, there is hereby appropriated—

"(A) $90,000,000,000 to the Highway Account (as defined in subsection (e)(5)(B)) in the Highway Trust Fund; and

"(B) $28,000,000,000 to the Mass Transit Account in the Highway Trust Fund.".

TITLE II—CHEMICAL SUPERFUND

SEC. 80201. EXTENSION AND MODIFICATION OF CERTAIN SUPERFUND EXCISE TAXES.

(a) EXTENSION.—

(1) IN GENERAL.—Section 4661(c) of the Internal Revenue Code of 1986 is amended to read as follows:

"(c) TERMINATION.—No tax shall be imposed by this section after December 31, 2031.".

(2) IMPORTED SUBSTANCES.—Section 4671(e) of the Internal Revenue Code of 1986 is amended to read as follows:

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"(e) TERMINATION.—No tax shall be imposed by this section after December 31, 2031.".

(b) MODIFICATION OF RATES.—

(1) IN GENERAL.—Section 4661(b) of the Internal Revenue Code of 1986 is amended to read as follows:

"(b) AMOUNT OF TAX.—The amount of tax imposed by subsection (a) shall be determined in accordance with the following table:

"In the case of:	The tax is the following amount per ton:
Acetylene	$9.74
Benzene	9.74
Butane	9.74
Butylene	9.74
Butadiene	9.74
Ethylene	9.74
Methane	6.88
Napthalene	9.74
Propylene	9.74
Toluene	9.74
Xylene	9.74
Ammonia	5.28
Antimony	8.90
Antimony trioxide	7.50
Arsenic	8.90
Arsenic trioxide	6.82
Barium sulfide	4.60
Bromine	8.90
Cadmium	8.90
Chlorine	5.40
Chromium	8.90
Chromite	3.04
Potassium dichromate	3.38
Sodium dichromate	3.74
Cobalt	8.90
Cupric sulfate	3.74
Cupric oxide	7.18
Cuprous oxide	7.94
Hydrochloric acid	0.58
Hydrogen fluoride	8.46
Lead oxide	8.28
Mercury	8.90
Nickel	8.90
Phosphorus	8.90
Stannous chloride	5.70
Stannic chloride	4.24
Zinc chloride	4.44
Zinc sulfate	3.80
Potassium hydroxide	0.44
Sodium hydroxide	0.56
Sulfuric acid	0.52
Nitric acid	0.48.".

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(2) RATE ON TAXABLE SUBSTANCES WHERE IMPORTER DOES NOT FURNISH INFORMATION TO THE SECRETARY.—Section 4671(b)(2) of such Code is amended by striking "5 percent" and inserting "10 percent".

(c) RULES RELATING TO TAXABLE SUBSTANCES.—

(1) MODIFICATION OF DETERMINATION OF TAXABLE SUBSTANCES.—Section 4672(a)(2)(B) of the Internal Revenue Code of 1986 is amended by striking "50 percent" each place it appears and inserting "20 percent".

(2) PRESUMPTION AS A TAXABLE SUBSTANCE FOR PRIOR DETERMINATIONS.—Except as otherwise determined by the Secretary of the Treasury (or the Secretary's delegate), any substance which was determined to be a taxable substance by reason of section 4672(a)(2) of the Internal Revenue Code of 1986 prior to the date of enactment of this Act shall continue to be treated as a taxable substance for purposes of such section after such date.

(3) PUBLICATION OF INITIAL LIST.—Not later than January 1, 2022, the Secretary of the Treasury (or the Secretary's delegate) shall publish an initial list of taxable substances under section 4672(a) of the Internal Revenue Code of 1986.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2022.

TITLE III—CUSTOMS USER FEES

SEC. 80301. EXTENSION OF CUSTOMS USER FEES.

(a) IN GENERAL.—Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended—

(1) in subparagraph (A), by striking "September 30, 2030" and inserting "September 30, 2031"; and

(2) in subparagraph (B)(i), by striking "September 30, 2030" and inserting "September 30, 2031".

(b) RATE FOR MERCHANDISE PROCESSING FEES.—Section 503 of the United States-Korea Free Trade Agreement Implementation Act (Public Law 112–41; 19 U.S.C. 3805 note) is amended by striking "September 30, 2030" and inserting "September 30, 2031".

TITLE IV—BOND PROVISIONS

SEC. 80401. PRIVATE ACTIVITY BONDS FOR QUALIFIED BROADBAND PROJECTS.

(a) IN GENERAL.—Section 142(a) of the Internal Revenue Code of 1986 is amended by striking "or" at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ", or", and by adding at the end the following new paragraph:

"(16) qualified broadband projects.".

(b) QUALIFIED BROADBAND PROJECTS.—Section 142 of such Code is amended by adding at the end the following new subsection:

"(n) QUALIFIED BROADBAND PROJECT.—

"(1) IN GENERAL.—For purposes of subsection (a)(16), the term 'qualified broadband project' means any project which—

"(A) is designed to provide broadband service solely to 1 or more census block groups in which more than

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50 percent of residential households do not have access to fixed, terrestrial broadband service which delivers at least 25 megabits per second downstream and at least 3 megabits service upstream, and

"(B) results in internet access to residential locations, commercial locations, or a combination of residential and commercial locations at speeds not less than 100 megabits per second for downloads and 20 megabits for second for uploads, but only if at least 90 percent of the locations provided such access under the project are locations where, before the project, a broadband service provider—

"(i) did not provide service, or

"(ii) did not provide service meeting the minimum speed requirements described in subparagraph (A).

"(2) NOTICE TO BROADBAND PROVIDERS.—A project shall not be treated as a qualified broadband project unless, before the issue date of any issue the proceeds of which are to be used to fund the project, the issuer—

"(A) notifies each broadband service provider providing broadband service in the area within which broadband services are to be provided under the project of the project and its intended scope,

"(B) includes in such notice a request for information from each such provider with respect to the provider's ability to deploy, manage, and maintain a broadband network capable of providing gigabit capable Internet access to residential or commercial locations, and

"(C) allows each such provider at least 90 days to respond to such notice and request.".

(c) PARTIAL EXCEPTION FROM VOLUME CAP.—

(1) IN GENERAL.—Section 146(g) of the Internal Revenue Code of 1986 is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", and", and by inserting immediately after paragraph (4) the following new paragraph:

"(5) 75 percent of any exempt facility bond issued as part of an issue described in paragraph (16) of section 142(a) (relating to qualified broadband projects).".

(2) GOVERNMENT-OWNED PROJECTS.—The last sentence of section 146(g) of such Code is amended by striking "Paragraph (4)" and inserting "Paragraphs (4) and (5)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued in calendar years beginning after the date of the enactment of this Act.

SEC. 80402. CARBON DIOXIDE CAPTURE FACILITIES.

(a) IN GENERAL.—Section 142(a) of the Internal Revenue Code of 1986, as amended by section 80401, is amended by striking "or" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting ", or", and by adding at the end the following new paragraph:

"(17) qualified carbon dioxide capture facilities.".

(b) QUALIFIED CARBON DIOXIDE CAPTURE FACILITIES.—Section 142 of such Code, as amended by section 80401, is amended by adding at the end the following new subsection:

"(o) QUALIFIED CARBON DIOXIDE CAPTURE FACILITY.—

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"(1) IN GENERAL.—For purposes of subsection (a)(17), the term 'qualified carbon dioxide capture facility' means—

"(A) the eligible components of an industrial carbon dioxide facility, and

"(B) a direct air capture facility (as defined in section 45Q(e)(1)).

"(2) DEFINITIONS.—For purposes of this subsection:

"(A) ELIGIBLE COMPONENT.—

"(i) IN GENERAL.—The term 'eligible component' means any equipment which is installed in an industrial carbon dioxide facility that satisfies the requirements under paragraph (3) and which is—

"(I) used for the purpose of capture, treatment and purification, compression, transportation, or on-site storage of carbon dioxide produced by the industrial carbon dioxide facility, or

"(II) integral or functionally related and subordinate to a process which converts a solid or liquid product from coal, petroleum residue, biomass, or other materials which are recovered for their energy or feedstock value into a synthesis gas composed primarily of carbon dioxide and hydrogen for direct use or subsequent chemical or physical conversion.

"(ii) DEFINITIONS.—For purposes of this subparagraph—

"(I) BIOMASS.—

"(aa) IN GENERAL.—The term 'biomass' means any—

"(AA) agricultural or plant waste,

"(BB) byproduct of wood or paper mill operations, including lignin in spent pulping liquors, and

"(CC) other products of forestry maintenance.

"(bb) EXCLUSION.—The term 'biomass' does not include paper which is commonly recycled.

"(II) COAL.—The term 'coal' means anthracite, bituminous coal, subbituminous coal, lignite, and peat.

"(B) INDUSTRIAL CARBON DIOXIDE FACILITY.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'industrial carbon dioxide facility' means a facility that emits carbon dioxide (including from any fugitive emissions source) that is created as a result of any of the following processes:

"(I) Fuel combustion.

"(II) Gasification.

"(III) Bioindustrial.

"(IV) Fermentation.

"(V) Any manufacturing industry relating to—

"(aa) chemicals,

"(bb) fertilizers,

"(cc) glass,

"(dd) steel,

"(ee) petroleum residues,

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"(ff) forest products,

"(gg) agriculture, including feedlots and dairy operations, and

"(hh) transportation grade liquid fuels.

"(ii) EXCEPTIONS.—For purposes of clause (i), an industrial carbon dioxide facility shall not include—

"(I) any geological gas facility, or

"(II) any air separation unit that—

"(aa) does not qualify as gasification equipment, or

"(bb) is not a necessary component of an oxy-fuel combustion process.

"(iii) DEFINITIONS.—For purposes of this subparagraph—

"(I) PETROLEUM RESIDUE.—The term 'petroleum residue' means the carbonized product of high-boiling hydrocarbon fractions obtained in petroleum processing.

"(II) GEOLOGICAL GAS FACILITY.—The term 'geological gas facility' means a facility that—

"(aa) produces a raw product consisting of gas or mixed gas and liquid from a geological formation,

"(bb) transports or removes impurities from such product, or

"(cc) separates such product into its constituent parts.

"(3) SPECIAL RULE FOR FACILITIES WITH LESS THAN 65 PERCENT CAPTURE AND STORAGE PERCENTAGE.—

"(A) IN GENERAL.—Subject to subparagraph (B), the eligible components of an industrial carbon dioxide facility satisfies the requirements of this paragraph if such eligible components are designed to have a capture and storage percentage (as determined under subparagraph (C)) that is equal to or greater than 65 percent.

"(B) EXCEPTION.—In the case of an industrial carbon dioxide facility designed with a capture and storage percentage that is less than 65 percent, the percentage of the cost of the eligible components installed in such facility that may be financed with tax-exempt bonds may not be greater than the designed capture and storage percentage.

"(C) CAPTURE AND STORAGE PERCENTAGE.—

"(i) IN GENERAL.—Subject to clause (ii), the capture and storage percentage shall be an amount, expressed as a percentage, equal to the quotient of—

"(I) the total metric tons of carbon dioxide designed to be annually captured, transported, and injected into—

"(aa) a facility for geologic storage, or

"(bb) an enhanced oil or gas recovery well followed by geologic storage, divided by

"(II) the total metric tons of carbon dioxide which would otherwise be released into the atmosphere each year as industrial emission of greenhouse gas if the eligible components were

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not installed in the industrial carbon dioxide facility.

"(ii) LIMITED APPLICATION OF ELIGIBLE COMPONENTS.—In the case of eligible components that are designed to capture carbon dioxide solely from specific sources of emissions or portions thereof within an industrial carbon dioxide facility, the capture and storage percentage under this subparagraph shall be determined based only on such specific sources of emissions or portions thereof.

"(4) REGULATIONS.—The Secretary shall issue such regulations or other guidance as are necessary to carry out the provisions of this subsection, including methods for determining costs attributable to an eligible component for purposes of paragraph (3)(A).".

(c) VOLUME CAP.—Section 146(g) of such Code, as amended by section 80401, is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by inserting immediately after paragraph (5) the following new paragraph:

"(6) 75 percent of any exempt facility bond issued as part of an issue described in paragraph (17) of section 142(a) (relating to qualified carbon dioxide capture facilities).".

(d) CLARIFICATION OF PRIVATE BUSINESS USE.—Section 141(b)(6) of such Code is amended by adding at the end the following new subparagraph:

"(C) CLARIFICATION RELATING TO QUALIFIED CARBON DIOXIDE CAPTURE FACILITIES.—For purposes of this subsection, the sale of carbon dioxide produced by a qualified carbon dioxide capture facility (as defined in section 142(o)) which is owned by a governmental unit shall not constitute private business use.".

(e) COORDINATION WITH CREDIT FOR CARBON OXIDE SEQUESTRATION.—Section 45Q(f) of such Code is amended by adding at the end the following new paragraph:

"(3) CREDIT REDUCED FOR CERTAIN TAX-EXEMPT BONDS.—The amount of the credit determined under subsection (a) with respect to any project for any taxable year shall be reduced by the amount which is the product of the amount so determined for such year and the lesser of ½ or a fraction—

"(A) the numerator of which is the sum, for the taxable year and all prior taxable years, of the proceeds from an issue described in section 142(a)(17) used to provide financing for the project the interest on which is exempt from tax under section 103, and

"(B) the denominator of which is the aggregate amount of additions to the capital account for the project for the taxable year and all prior taxable years.

The amounts under the preceding sentence for any taxable year shall be determined as of the close of the taxable year.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2021.

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SEC. 80403. INCREASE IN NATIONAL LIMITATION AMOUNT FOR QUALIFIED HIGHWAY OR SURFACE FREIGHT TRANSPORTATION FACILITIES.

(a) IN GENERAL.—Section 142(m)(2)(A) of the Internal Revenue Code of 1986 is amended by striking "$15,000,000,000" and inserting "$30,000,000,000".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after the date of the enactment of this Act.

TITLE V—RELIEF FOR TAXPAYERS AFFECTED BY DISASTERS OR OTHER CRITICAL EVENTS

SEC. 80501. MODIFICATION OF AUTOMATIC EXTENSION OF CERTAIN DEADLINES IN THE CASE OF TAXPAYERS AFFECTED BY FEDERALLY DECLARED DISASTERS.

(a) IN GENERAL.—Section 7508A(d) of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (1)—

(A) by striking "the latest incident date so specified" in subparagraph (B) and inserting "the later of such earliest incident date described in subparagraph (A) or the date such declaration was issued", and

(B) by striking "in the same manner as a period specified under subsection (a)" and inserting "in determining, under the internal revenue laws, in respect of any tax liability of such qualified taxpayer, whether any of the acts described in subparagraphs (A) through (F) of section 7508(a)(1) were performed within the time prescribed therefor (determined without regard to extension under any other provision of this subtitle for periods after the date determined under subparagraph (B))",

(2) by striking paragraph (3) and inserting the following:

"(3) DISASTER AREA.—For purposes of this subsection, the term 'disaster area' means an area in which a major disaster for which the President provides financial assistance under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) occurs.", and

(3) by adding at the end the following:

"(6) MULTIPLE DECLARATIONS.—For purposes of paragraph (1), in the case of multiple declarations relating to a disaster area which are issued within a 60-day period, a separate period shall be determined under such paragraph with respect to each such declaration.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to federally declared disasters declared after the date of enactment of this Act.

SEC. 80502. MODIFICATIONS OF RULES FOR POSTPONING CERTAIN ACTS BY REASON OF SERVICE IN COMBAT ZONE OR CONTINGENCY OPERATION.

(a) IN GENERAL.—Section 7508(a)(1) of the Internal Revenue Code of 1986 is amended—

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(1) by striking subparagraph (C) and inserting the following:

"(C) Filing a petition with the Tax Court, or filing a notice of appeal from a decision of the Tax Court;", and

(2) by inserting "or in respect of any erroneous refund" after "any tax" in subparagraph (J).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any period for performing an act which has not expired before the date of the enactment of this Act.

SEC. 80503. TOLLING OF TIME FOR FILING A PETITION WITH THE TAX COURT.

(a) IN GENERAL.—Section 7451 of the Internal Revenue Code of 1986 is amended—

(1) by striking "The Tax Court" and inserting the following: "(a) FEES.—The Tax Court", and

(2) by adding at the end the following new subsection: "(b) TOLLING OF TIME IN CERTAIN CASES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, in any case (including by reason of a lapse in appropriations) in which a filing location is inaccessible or otherwise unavailable to the general public on the date a petition is due, the relevant time period for filing such petition shall be tolled for the number of days within the period of inaccessibility plus an additional 14 days.

"(2) FILING LOCATION.—For purposes of this subsection, the term 'filing location' means—

"(A) the office of the clerk of the Tax Court, or

"(B) any on-line portal made available by the Tax Court for electronic filing of petitions.".

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 7451 of the Internal Revenue Code of 1986 is amended by striking "**FEE FOR FILING PETITION**" and inserting "**PETITIONS**".

(2) The item in the table of contents for part II of subchapter C of chapter 76 of such Code is amended by striking "Fee for filing petition" and inserting "Petitions".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to petitions required to be timely filed (determined without regard to the amendments made by this section) after the date of enactment of this Act.

SEC. 80504. AUTHORITY TO POSTPONE CERTAIN TAX DEADLINES BY REASON OF SIGNIFICANT FIRES.

(a) IN GENERAL.—Section 7508A of the Internal Revenue Code of 1986 is amended—

(1) by inserting ", a significant fire," after "federally declared disaster (as defined in section 165(i)(5)(A))" in subsection (a),

(2) by inserting ", fire," after "disaster" each place it appears in subsections (a)(1) and (b), and

(3) by adding at the end the following new subsection: "(e) SIGNIFICANT FIRE.—For purposes of this section, the term 'significant fire' means any fire with respect to which assistance is provided under section 420 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.".

(b) CONFORMING AMENDMENTS.—

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(1) The heading of section 7508A of the Internal Revenue Code of 1986 is amended by striking "**PRESIDENTIALLY DECLARED DISASTER**" and inserting "**FEDERALLY DECLARED DISASTER, SIGNIFICANT FIRE,**".

(2) The item relating to section 7508A in the table of sections for chapter 77 of such Code is amended by striking "Presidentially declared disaster" and inserting "Federally declared disaster, significant fire,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fires for which assistance is provided after the date of the enactment of this Act.

TITLE VI—OTHER PROVISIONS

SEC. 80601. MODIFICATION OF TAX TREATMENT OF CONTRIBUTIONS TO THE CAPITAL OF A CORPORATION.

(a) IN GENERAL.—Section 118 of the Internal Revenue Code of 1986 is amended—

(1) in subsection (b), by inserting "except as provided in subsection (c)," after "For purposes of subsection (a),",

(2) by redesignating subsection (d) as subsection (e), and

(3) by striking subsection (c) and inserting the following:

"(c) SPECIAL RULES FOR WATER AND SEWERAGE DISPOSAL UTILITIES.—

"(1) GENERAL RULE.—For purposes of this section, the term 'contribution to the capital of the taxpayer' includes any amount of money or other property received from any person (whether or not a shareholder) by a regulated public utility which provides water or sewerage disposal services if—

"(A) such amount is—

"(i) a contribution in aid of construction, or

"(ii) a contribution to the capital of such utility by a governmental entity providing for the protection, preservation, or enhancement of drinking water or sewerage disposal services,

"(B) in the case of a contribution in aid of construction which is property other than water or sewerage disposal facilities, such amount meets the requirements of the expenditure rule of paragraph (2), and

"(C) such amount (or any property acquired or constructed with such amount) is not included in the taxpayer's rate base for ratemaking purposes.

"(2) EXPENDITURE RULE.—An amount meets the requirements of this paragraph if—

"(A) an amount equal to such amount is expended for the acquisition or construction of tangible property described in section 1231(b)—

"(i) which is the property for which the contribution was made or is of the same type as such property, and

"(ii) which is used predominantly in the trade or business of furnishing water or sewerage disposal services,

"(B) the expenditure referred to in subparagraph (A) occurs before the end of the second taxable year after the year in which such amount was received, and

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"(C) accurate records are kept of the amounts contributed and expenditures made, the expenditures to which contributions are allocated, and the year in which the contributions and expenditures are received and made.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) CONTRIBUTION IN AID OF CONSTRUCTION.—The term 'contribution in aid of construction' shall be defined by regulations prescribed by the Secretary, except that such term shall not include amounts paid as service charges for starting or stopping services.

"(B) PREDOMINANTLY.—The term 'predominantly' means 80 percent or more.

"(C) REGULATED PUBLIC UTILITY.—The term 'regulated public utility' has the meaning given such term by section 7701(a)(33), except that such term shall not include any utility which is not required to provide water or sewerage disposal services to members of the general public in its service area.

"(4) DISALLOWANCE OF DEDUCTIONS AND CREDITS; ADJUSTED BASIS.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure which constitutes a contribution in aid of construction to which this subsection applies. The adjusted basis of any property acquired with contributions in aid of construction to which this subsection applies shall be zero.

"(d) STATUTE OF LIMITATIONS.—If the taxpayer for any taxable year treats an amount as a contribution to the capital of the taxpayer described in subsection (c)(1)(A)(i), then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such amount shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may prescribe) of—

"(A) the amount of the expenditure referred to in subparagraph (A) of subsection (c)(2),

"(B) the taxpayer's intention not to make the expenditures referred to in such subparagraph, or

"(C) a failure to make such expenditure within the period described in subparagraph (B) of subsection (c)(2), and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after December 31, 2020.

SEC. 80602. EXTENSION OF INTEREST RATE STABILIZATION.

(a) FUNDING STABILIZATION UNDER THE INTERNAL REVENUE CODE OF 1986.—The table in subclause (II) of section 430(h)(2)(C)(iv) of the Internal Revenue Code of 1986 is amended to read as follows:

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"If the calendar year is:	The applicable minimum percentage is:	The applicable maximum percentage is:
Any year in the period starting in 2012 and ending in 2019.	90%	110%
Any year in the period starting in 2020 and ending in 2030.	95%	105%
2031	90%	110%
2032	85%	115%
2033	80%	120%
2034	75%	125%
After 2034	70%	130%.".

(b) FUNDING STABILIZATION UNDER EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—The table in subclause (II) of section 303(h)(2)(C)(iv) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(h)(2)(C)(iv)) is amended to read as follows:

"If the calendar year is:	The applicable minimum percentage is:	The applicable maximum percentage is:
Any year in the period starting in 2012 and ending in 2019.	90%	110%
Any year in the period starting in 2020 and ending in 2030.	95%	105%
2031	90%	110%
2032	85%	115%
2033	80%	120%
2034	75%	125%
After 2034	70%	130%.".

(2) CONFORMING AMENDMENTS.—

(A) IN GENERAL.—Section 101(f)(2)(D) of such Act (29 U.S.C. 1021(f)(2)(D)) is amended—

(i) in clause (i), by striking "and the American Rescue Plan Act of 2021" both places it appears and inserting ", the American Rescue Plan Act of 2021, and the Infrastructure Investment and Jobs Act", and

(ii) in clause (ii), by striking "2029" and inserting "2034".

(B) STATEMENTS.—The Secretary of Labor shall modify the statements required under subclauses (I) and (II) of section 101(f)(2)(D)(i) of such Act to conform to the amendments made by this section.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after December 31, 2021.

SEC. 80603. INFORMATION REPORTING FOR BROKERS AND DIGITAL ASSETS.

(a) CLARIFICATION OF DEFINITION OF BROKER.—Section 6045(c)(1) of the Internal Revenue Code of 1986 is amended—

(1) by striking "and" at the end of subparagraph (B),

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(2) in subparagraph (C)—

(A) by striking "any other person who (for a consideration)" and inserting "any person who (for consideration)", and

(B) by striking the period at the end and inserting ", and", and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) any person who (for consideration) is responsible for regularly providing any service effectuating transfers of digital assets on behalf of another person.".

(b) REPORTING OF DIGITAL ASSETS.—

(1) BROKERS.—

(A) TREATMENT AS SPECIFIED SECURITY.—Section 6045(g)(3)(B) of the Internal Revenue Code of 1986 is amended by striking "and" at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

"(iv) any digital asset, and".

(B) DEFINITION OF DIGITAL ASSET.—Section 6045(g)(3) of such Code is amended by adding at the end the following new subparagraph:

"(D) DIGITAL ASSET.—Except as otherwise provided by the Secretary, the term 'digital asset' means any digital representation of value which is recorded on a cryptographically secured distributed ledger or any similar technology as specified by the Secretary.".

(C) APPLICABLE DATE.—Section 6045(g)(3)(C) of such Code is amended—

(i) in clause (ii), by striking "and" at the end,

(ii) by redesignating clause (iii) as clause (iv), and

(iii) by inserting after clause (ii) the following:

"(iii) January 1, 2023, in the case of any specified security which is a digital asset, and".

(2) FURNISHING OF INFORMATION.—

(A) IN GENERAL.—Section 6045A of such Code is amended—

(i) in subsection (a), by striking "a security which is", and

(ii) by adding at the end the following:

"(d) RETURN REQUIREMENT FOR CERTAIN TRANSFERS OF DIGITAL ASSETS NOT OTHERWISE SUBJECT TO REPORTING.—Any broker, with respect to any transfer (which is not part of a sale or exchange executed by such broker) during a calendar year of a covered security which is a digital asset from an account maintained by such broker to an account which is not maintained by, or an address not associated with, a person that such broker knows or has reason to know is also a broker, shall make a return for such calendar year, in such form as determined by the Secretary, showing the information otherwise required to be furnished with respect to transfers subject to subsection (a).".

(B) REPORTING PENALTIES.—Section 6724(d)(1)(B) of such Code is amended by striking "or" at the end of clause (xxv), by striking "and" at the end of clause (xxvi), and by inserting after clause (xxvi) the following new clause:

"(xxvii) section 6045A(d) (relating to returns for certain digital assets),".

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(3) TREATMENT AS CASH FOR PURPOSES OF SECTION 6050I.—Section 6050I(d) of such Code is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by inserting after paragraph (2) the following new paragraph:

"(3) any digital asset (as defined in section 6045(g)(3)(D)).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns required to be filed, and statements required to be furnished, after December 31, 2023.

(d) RULE OF CONSTRUCTION.—Nothing in this section or the amendments made by this section shall be construed to create any inference, for any period prior to the effective date of such amendments, with respect to—

(1) whether any person is a broker under section 6045(c)(1) of the Internal Revenue Code of 1986, or

(2) whether any digital asset is property which is a specified security under section 6045(g)(3)(B) of such Code.

SEC. 80604. TERMINATION OF EMPLOYEE RETENTION CREDIT FOR EMPLOYERS SUBJECT TO CLOSURE DUE TO COVID–19.

(a) IN GENERAL.—Section 3134 of the Internal Revenue Code of 1986 is amended—

(1) in subsection (c)(5)—

(A) in subparagraph (A), by adding "and" at the end,

(B) in subparagraph (B), by striking ", and" at the end and inserting a period, and

(C) by striking subparagraph (C), and

(2) in subsection (n), by striking "January 1, 2022" and inserting "October 1, 2021 (or, in the case of wages paid by an eligible employer which is a recovery startup business, January 1, 2022)".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar quarters beginning after September 30, 2021.

DIVISION I—OTHER MATTERS

SEC. 90001. EXTENSION OF DIRECT SPENDING REDUCTIONS THROUGH FISCAL YEAR 2031.

Section 251A(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901a(6)) is amended—

(1) in subparagraph (B), in the matter preceding clause (i), by striking "2030" and inserting "2031"; and

(2) in subparagraph (C)—

(A) in the matter preceding clause (i), by striking "2030" and inserting "2031";

(B) in clause (i)—

(i) by striking "5 ½" and inserting "6";

(ii) by striking "2.0" and inserting "4.0"; and

(iii) by striking the semicolon at the end and inserting "; and";

(C) in clause (ii)—

(i) by striking "6-month period beginning on the day after the last day of the period described in clause (i)" and inserting "second 6 months";

(ii) by striking "4.0" and inserting "0"; and

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(iii) by striking "; and" and inserting a period; and

(D) by striking clause (iii).

SEC. 90002. STRATEGIC PETROLEUM RESERVE DRAWDOWN AND SALE.

(a) DRAWDOWN AND SALE.—

(1) IN GENERAL.—Notwithstanding section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241), except as provided in subsections (b) and (c), the Secretary of Energy shall draw down and sell from the Strategic Petroleum Reserve 87,600,000 barrels of crude oil during the period of fiscal years 2028 through 2031.

(2) TIMING.—Subject to paragraph (1) and subsection (c)(1), in determining the timing of each drawdown and sale from the Strategic Petroleum Reserve during the period of fiscal years 2028 through 2031 under paragraph (1), to the maximum extent practicable, the Secretary shall maximize the financial return to the United States taxpayers.

(3) DEPOSIT OF AMOUNTS RECEIVED FROM SALE.—Amounts received from a sale under paragraph (1) shall be deposited in the general fund of the Treasury during the fiscal year in which the sale occurs.

(4) SPR PETROLEUM ACCOUNT.—The Secretary of the Treasury shall deposit in the SPR Petroleum Account established under section 167(a) of the Energy Policy and Conservation Act (42 U.S.C. 6247(a)) $43,500,000, to be used to carry out paragraph (1) in accordance with section 167 of the Energy Policy and Conservation Act (42 U.S.C. 6247).

(b) EMERGENCY PROTECTION.—The Secretary of Energy shall not draw down and sell crude oil under subsection (a) in a quantity that would limit the authority to sell petroleum products under subsection (h) of section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241) in the full quantity authorized by that subsection.

(c) LIMITATIONS.—

(1) IN GENERAL.—The Secretary of Energy shall not draw down or conduct sales of crude oil under subsection (a) after the date on which a total of $6,100,000,000 has been deposited in the general fund of the Treasury from sales authorized under that subsection.

(2) MINIMUM VOLUME.—Section 161(h)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6241(h)(2)) is amended by striking "340,000,000" each place it appears and inserting "252,400,000".

SEC. 90003. FINDINGS REGARDING UNUSED UNEMPLOYMENT INSURANCE FUNDS.

Congress finds the following:

(1) On July 16, 2021, the Congressional Budget Office (in this section referred to as "CBO") reduced its projected cost of the extension of expanded unemployment compensation as enacted in the American Rescue Plan Act of 2021 (P.L. 117–2).

(2) CBO budget projections included mandatory outlays for the expansion totaling $144,000,000,000 in 2021 and $8,000,000,000 in 2022. That estimated cost is $50,000,000,000 less in 2021, and $3,000,000,000 less in 2022, than anticipated in CBO's March 2021 cost estimate.

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(3) CBO reduced its projections of those costs for two major reasons. First, several States have announced that they are discontinuing one or more of the components of expanded unemployment compensation before the expansion's authorization ends in September 2021. In its original estimate, CBO projected that all States would participate in the programs until September. Second, because of the improving economy, the agency has lowered its forecast of the unemployment rate, resulting in fewer projected beneficiaries for the programs, which also reduced projected costs.

(4) It is estimated that there are approximately $53,000,000,000 in savings from the amounts in the Treasury originally estimated to be spent on unemployment insurance funds (under the provisions of subtitle A of title II of division A of the CARES Act) not used by the States.

SEC. 90004. REQUIRING MANUFACTURERS OF CERTAIN SINGLE-DOSE CONTAINER OR SINGLE-USE PACKAGE DRUGS PAYABLE UNDER PART B OF THE MEDICARE PROGRAM TO PROVIDE REFUNDS WITH RESPECT TO DISCARDED AMOUNTS OF SUCH DRUGS.

Section 1847A of the Social Security Act (42 U.S.C. 1395w–3a) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"(h) REFUND FOR CERTAIN DISCARDED SINGLE-DOSE CONTAINER OR SINGLE-USE PACKAGE DRUGS.—

"(1) SECRETARIAL PROVISION OF INFORMATION.—

"(A) IN GENERAL.—For each calendar quarter beginning on or after January 1, 2023, the Secretary shall, with respect to a refundable single-dose container or single-use package drug (as defined in paragraph (8)), report to each manufacturer (as defined in subsection (c)(6)(A)) of such refundable single-dose container or single-use package drug the following for the calendar quarter:

"(i) Subject to subparagraph (C), information on the total number of units of the billing and payment code of such drug, if any, that were discarded during such quarter, as determined using a mechanism such as the JW modifier used as of the date of enactment of this subsection (or any such successor modifier that includes such data as determined appropriate by the Secretary).

"(ii) The refund amount that the manufacturer is liable for pursuant to paragraph (3).

"(B) DETERMINATION OF DISCARDED AMOUNTS.—For purposes of subparagraph (A)(i), with respect to a refundable single-dose container or single-use package drug furnished during a quarter, the amount of such drug that was discarded shall be determined based on the amount of such drug that was unused and discarded for each drug on the date of service.

"(C) EXCLUSION OF UNITS OF PACKAGED DRUGS.—The total number of units of the billing and payment code of a refundable single-dose container or single-use package drug of a manufacturer furnished during a calendar quarter

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for purposes of subparagraph (A)(i), and the determination of the estimated total allowed charges for the drug in the quarter for purposes of paragraph (3)(A)(ii), shall not include such units that are packaged into the payment amount for an item or service and are not separately payable.

"(2) MANUFACTURER REQUIREMENT.—For each calendar quarter beginning on or after January 1, 2023, the manufacturer of a refundable single-dose container or single-use package drug shall, for such drug, provide to the Secretary a refund that is equal to the amount specified in paragraph (3) for such drug for such quarter.

"(3) REFUND AMOUNT.—

"(A) IN GENERAL.—The amount of the refund specified in this paragraph is, with respect to a refundable single-dose container or single-use package drug of a manufacturer assigned to a billing and payment code for a calendar quarter beginning on or after January 1, 2023, an amount equal to the estimated amount (if any) by which—

"(i) the product of—

"(I) the total number of units of the billing and payment code for such drug that were discarded during such quarter (as determined under paragraph (1)); and

"(II)(aa) in the case of a refundable single-dose container or single-use package drug that is a single source drug or biological, the amount of payment determined for such drug or biological under subsection (b)(1)(B) for such quarter; or

"(bb) in the case of a refundable single-dose container or single-use package drug that is a biosimilar biological product, the amount of payment determined for such product under subsection (b)(1)(C) for such quarter; exceeds

"(ii) an amount equal to the applicable percentage (as defined in subparagraph (B)) of the estimated total allowed charges for such drug under this part during the quarter.

"(B) APPLICABLE PERCENTAGE DEFINED.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(ii), the term 'applicable percentage' means—

"(I) subject to subclause (II), 10 percent; and

"(II) if applicable, in the case of a refundable single-dose container or single-use package drug described in clause (ii), a percentage specified by the Secretary pursuant to such clause.

"(ii) TREATMENT OF DRUGS THAT HAVE UNIQUE CIRCUMSTANCES.—In the case of a refundable single-dose container or single-use package drug that has unique circumstances involving similar loss of product as that described in paragraph (8)(B)(ii), the Secretary, through notice and comment rulemaking, may increase the applicable percentage otherwise applicable under clause (i)(I) as determined appropriate by the Secretary.

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"(4) FREQUENCY.—Amounts required to be refunded pursuant to paragraph (2) shall be paid in regular intervals (as determined appropriate by the Secretary).

"(5) REFUND DEPOSITS.—Amounts paid as refunds pursuant to paragraph (2) shall be deposited into the Federal Supplementary Medical Insurance Trust Fund established under section 1841.

"(6) ENFORCEMENT.—

"(A) AUDITS.—

"(i) MANUFACTURER AUDITS.—Each manufacturer of a refundable single-dose container or single-use package drug that is required to provide a refund under this subsection shall be subject to periodic audit with respect to such drug and such refunds by the Secretary.

"(ii) PROVIDER AUDITS.—The Secretary shall conduct periodic audits of claims submitted under this part with respect to refundable single-dose container or single-use package drugs in accordance with the authority under section 1833(e) to ensure compliance with the requirements applicable under this subsection.

"(B) CIVIL MONEY PENALTY.—

"(i) IN GENERAL.—The Secretary shall impose a civil money penalty on a manufacturer of a refundable single-dose container or single-use package drug who has failed to comply with the requirement under paragraph (2) for such drug for a calendar quarter in an amount equal to the sum of—

"(I) the amount that the manufacturer would have paid under such paragraph with respect to such drug for such quarter; and

"(II) 25 percent of such amount.

"(ii) APPLICATION.—The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(7) IMPLEMENTATION.—The Secretary shall implement this subsection through notice and comment rulemaking.

"(8) DEFINITION OF REFUNDABLE SINGLE-DOSE CONTAINER OR SINGLE-USE PACKAGE DRUG.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), in this subsection, the term 'refundable single-dose container or single-use package drug' means a single source drug or biological (as defined in section 1847A(c)(6)(D)) or a biosimilar biological product (as defined in section 1847A(c)(6)(H)) for which payment is made under this part and that is furnished from a single-dose container or single-use package.

"(B) EXCLUSIONS.—The term 'refundable single-dose container or single-use package drug' does not include—

"(i) a drug or biological that is either a radiopharmaceutical or an imaging agent;

"(ii) a drug or biological approved by the Food and Drug Administration for which dosage and administration instructions included in the labeling

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require filtration during the drug preparation process, prior to dilution and administration, and require that any unused portion of such drug after the filtration process be discarded after the completion of such filtration process; or

"(iii) a drug or biological approved by the Food and Drug Administration on or after the date of enactment of this subsection and with respect to which payment has been made under this part for fewer than 18 months.

"(9) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this subsection, the Office of the Inspector General, after consultation with the Centers for Medicare & Medicaid Services and the Food and Drug Administration, shall submit to the Committee on Finance of the Senate and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives, a report on any impact this section is reported to have on the licensure, market entry, market retention, or marketing of biosimilar biological products. Such report shall be updated periodically at the direction of the Committee on Finance of the Senate and the Committee on Energy and Commerce and the Committee on Ways and Means of the House of Representatives.".

SEC. 90005. EXTENSION OF ENTERPRISE GUARANTEE FEES.

Section 1327(f) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4547(f)) is amended by striking "2021" and inserting "2032".

SEC. 90006. MORATORIUM ON IMPLEMENTATION OF RULE RELATING TO ELIMINATING THE ANTI-KICKBACK STATUTE SAFE HARBOR PROTECTION FOR PRESCRIPTION DRUG REBATES.

Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, prior to January 1, 2026, implement, administer, or enforce the provisions of the final rule published by the Office of the Inspector General of the Department of Health and Human Services on November 30, 2020, and titled "Fraud and Abuse; Removal of Safe Harbor Protection for Rebates Involving Prescription Pharmaceuticals and Creation of New Safe Harbor Protection for Certain Point-of-Sale Reductions in Price on Prescription Pharmaceuticals and Certain Pharmacy Benefit Manager Service Fees" (85 Fed. Reg. 76666).

SEC. 90007. RESCISSION OF COVID–19 APPROPRIATIONS.

(a) ECONOMIC INJURY DISASTER LOAN SUBSIDY.—

(1) RESCISSION.—Of the unobligated balances from amounts made available under the heading "Small Business Administration—Disaster Loans Program Account" in title II of division B of the Paycheck Protection Program and Health Care Enhancement Act (Public Law 116–139), $13,500,000,000 are permanently rescinded.

(2) DESIGNATION.—The amount rescinded pursuant to paragraph (1) that was previously designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act

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of 1985 is designated by the Congress as an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) TARGETED EIDL ADVANCE.—

(1) Of the unobligated balances from amounts made available under the heading "Small Business Administration—Targeted EIDL Advance" in section 323(d)(1)(D) of division N of the Consolidated Appropriations Act, 2021 (Public Law 116–260), $17,578,000,000 are permanently rescinded.

(2) Of the unobligated balances from amounts made available in section 5002(b) of the American Rescue Plan Act of 2021 (Public Law 117–2)—

(A) amounts may be transferred to and merged with "Small Business Administration—Disaster Loans Program Account" for the cost of direct loans authorized under section 7(b) of the Small Business Act (15 U.S.C. 636(b));

(B) not more than $500,000,000 may be transferred to "Small Business Administration—Salaries and Expenses" for necessary expenses, not otherwise provided for, of the Small Business Administration; and

(C) not more than $992,000,000 may be transferred to, and merged with, "Small Business Administration—Business Loans Program Account" for the cost of guaranteed loans as authorized by paragraphs (1) through (35) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)), including the cost of carrying out sections 326, 327, and 328 of division N of the Consolidated Appropriations Act, 2021 (Public Law 116–260).

(c) ECONOMIC STABILIZATION PROGRAM.—Of the unobligated balances from amounts made available in section 4027(a) of the Coronavirus Aid, Relief, and Economic Security Act (15 U.S.C. 9601), $1,366,100,000 are permanently rescinded.

(d) BUSINESS LOANS PROGRAM ACCOUNT.—

(1) Of the unobligated balances from amounts made available under the heading "Small Business Administration—Business Loans Program Account, CARES Act" in section 1107(a)(1) of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116–136), as amended by section 101(a)(2) of division A of the Paycheck Protection Program and Health Care Enhancement Act (Public Law 116–139), and in section 323(d)(1)(A) of division N of the Consolidated Appropriations Act, 2021 (Public Law 116–260) for carrying out paragraphs (36) and (37) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)), $4,684,000,000 are permanently rescinded.

(2) Of the unobligated balances from amounts made available under the heading "Small Business Administration—Business Loans Program Account" in section 323(d)(1)(F) of division N of the Consolidated Appropriations Act, 2021 (Public Law 116–260), $992,000,000 are permanently rescinded.

(e) PANDEMIC RELIEF FOR AVIATION WORKERS, CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT (CARES ACT).—Of the unobligated balances from amounts made available in section 4120 of the Coronavirus Aid, Relief, and Economic Security Act (15 U.S.C. 9080), $3,000,000,000 are permanently rescinded.

(f) EDUCATION STABILIZATION FUND.—

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(1) RESCISSION.—Of the unobligated balances from amounts made available under the heading "Education Stabilization Fund" in title VIII of division B of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116–136) and in title III of division M of the Consolidated Appropriations Act, 2021 (Public Law 116–260) that were reserved for the Higher Education Emergency Relief Fund by sections 18004(a)(1) and 18004(a)(2) of division B of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116–136) and sections 314(a)(1), 314(a)(2), and 314(a)(4) of division M of the Consolidated Appropriations Act, 2021 (Public Law 116–260), $353,400,000 are permanently rescinded.

(2) DESIGNATION.—The amount rescinded pursuant to paragraph (1) that was previously designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 is designated by the Congress as an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(g) SMALL BUSINESS ADMINISTRATION, SALARIES AND EXPENSES.—

(1) RESCISSION.—Of the unobligated balances from amounts made available under the heading "Small Business Administration—Salaries and Expenses" in section 1107(a)(2) of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116–136), in title II of division B of the Paycheck Protection Program and Health Care Enhancement Act (Public Law 116–139), and in section 323(d)(1)(C) of division N of the Consolidated Appropriations Act, 2021 (Public Law 116–260), $175,000,000 are permanently rescinded.

(2) DESIGNATION.—The amount rescinded pursuant to paragraph (1) that was previously designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 is designated by the Congress as an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(h) PANDEMIC RELIEF FOR AVIATION WORKERS.—Of the unobligated balances from amounts made available in section 411 of subtitle A of title IV of division N of the Consolidated Appropriations Act, 2021 (15 U.S.C. 9101), $200,000,000 are permanently rescinded.

SEC. 90008. SPECTRUM AUCTIONS.

(a) DEFINITIONS.—In this section:

(1) COMMISSION.—The term "Commission" means the Federal Communications Commission.

(2) COVERED BAND.—The term "covered band" means the band of frequencies between 3100 and 3450 megahertz.

(3) RELEVANT CONGRESSIONAL COMMITTEES.—The term "relevant congressional committees" means—

(A) the Committee on Armed Services of the Senate;

(B) the Committee on Armed Services of the House of Representatives;

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(C) the Committee on Commerce, Science, and Transportation of the Senate; and

(D) the Committee on Energy and Commerce of the House of Representatives.

(b) 3.1–3.45 GHz BAND.—

(1) PRE-AUCTION FUNDING.—

(A) IN GENERAL.—On the date of enactment of this Act, the Director of the Office of Management and Budget shall transfer $50,000,000 from the Spectrum Relocation Fund established under section 118 of the National Telecommunications and Information Administration Act (47 U.S.C. 928) to the Department of Defense for the purpose of research and development, engineering studies, economic analyses, activities with respect to systems, or other planning activities to improve efficiency and effectiveness of the spectrum use of the Department of Defense in order to make available electromagnetic spectrum in the covered band—

(i) for reallocation for shared Federal and non-Federal commercial licensed use; and

(ii) for auction under paragraph (3) of this subsection.

(B) EXEMPTION.—Section 118(g) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 928(g)) shall not apply with respect to the payment required under subparagraph (A).

(C) REPORT TO SECRETARY OF COMMERCE.—For purposes of paragraph (2)(A), the Secretary of Defense shall report to the Secretary of Commerce the findings of the planning activities described in subparagraph (A) of this paragraph.

(2) IDENTIFICATION.—

(A) IN GENERAL.—Not later than 21 months after the date of enactment of this Act, in accordance with the findings of the planning activities described in paragraph (1)(A) and subject to the determination of the Secretary of Defense under subparagraph (B) of this paragraph, the Secretary of Commerce, in coordination with the Secretary of Defense, the Director of the Office of Science and Technology Policy, and relevant congressional committees, shall—

(i) determine which frequencies of electromagnetic spectrum in the covered band could be made available on a shared basis between Federal use and non-Federal commercial licensed use, subject to flexible-use service rules; and

(ii) submit to the President and the Commission a report that identifies the frequencies determined appropriate under clause (i).

(B) REQUIRED DETERMINATION.—The Secretary of Commerce may identify frequencies under subparagraph (A)(ii) only if the Secretary of Defense has determined that sharing those frequencies with non-Federal users would not impact the primary mission of military spectrum users in the covered band.

(3) AUCTION.—Not earlier than November 30, 2024, the Commission, in consultation with the Assistant Secretary of

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Commerce for Communications and Information, shall begin a system of competitive bidding under section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) to grant new licenses for the spectrum identified under paragraph (2)(A)(ii) of this subsection.

(4) SHARING OF SPECTRUM.—Not earlier than May 31, 2025, the President shall modify any assignment to a Federal Government station of the frequencies identified under clause (ii) of paragraph (2)(A) in order to accommodate shared Federal and non-Federal commercial licensed use in accordance with that paragraph.

(5) AUCTION PROCEEDS TO COVER 110 PERCENT OF FEDERAL RELOCATION OR SHARING COSTS.—Nothing in this subsection shall be construed to relieve the Commission from the requirements under section 309(j)(16)(B) of the Communications Act of 1934 (47 U.S.C. 309(j)(16)(B)).

(c) FCC AUCTION AUTHORITY.—

(1) TERMINATION.—Section 309(j)(11) of the Communications Act of 1934 (47 U.S.C. 309(j)(11)) is amended by inserting after "2025" the following: ", and with respect to the electromagnetic spectrum identified under section 90008(b)(2)(A)(ii) of the Infrastructure Investment and Jobs Act, such authority shall expire on the date that is 7 years after the date of enactment of that Act".

(2) SPECTRUM PIPELINE ACT OF 2015.—Section 1006(c)(1) of the Spectrum Pipeline Act of 2015 (Public Law 114–74; 129 Stat. 624) is amended by striking "2022" and inserting "2024".

DIVISION J—APPROPRIATIONS

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2022, and for other purposes, namely:

TITLE I—AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FARM PRODUCTION AND CONSERVATION PROGRAMS

NATURAL RESOURCES CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for "Watershed and Flood Prevention Operations", $500,000,000, to remain available until expended: *Provided*, That not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall submit to the House and Senate Committees on Appropriations a detailed spend plan, including a list of project locations and project cost: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

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WATERSHED REHABILITATION PROGRAM

For an additional amount for "Watershed Rehabilitation Program", $118,000,000, to remain available until expended: *Provided*, That not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall submit to the House and Senate Committees on Appropriations a detailed spend plan, including a list of project locations and project cost: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

EMERGENCY WATERSHED PROTECTION PROGRAM

For an additional amount for "Emergency Watershed Protection Program" to repair damages to the waterways and watersheds resulting from natural disasters, $300,000,000, to remain available until expended: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

RURAL DEVELOPMENT PROGRAMS

RURAL UTILITIES SERVICE

DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND PROGRAM

For an additional amount for "Rural Utilities Service—Distance Learning, Telemedicine, and Broadband Program", $2,000,000,000, to remain available until expended: *Provided*, That of the funds made available under this heading in this Act, $74,000,000 shall be for the cost of broadband loans, as authorized by section 601 of the Rural Electrification Act: *Provided further*, That, of the funds made available under this heading in this Act, $1,926,000,000 shall be for the broadband loan and grant pilot program established by section 779 of Public Law 115–141 under the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 et seq.): *Provided further*, That at least 50 percent of the households to be served by a project receiving a loan or grant from funds provided under the preceding proviso shall be in a rural area, as defined in section 601(b)(3) of the Rural Electrification Act, without sufficient access to broadband defined for such funds as having speeds of not less than 25 megabits per second downloads and 3 megabits per second uploads: *Provided further*, That 10 percent of the amounts made available under this heading in this Act for the pilot program shall be set aside for service areas where at least 90 percent of households to be served by a project receiving a loan or grant are in a rural area without sufficient access to broadband, as defined in the preceding proviso: *Provided further*, That, to the extent possible, projects receiving funds provided under this heading in this Act for the pilot program must build out service to at least 100 megabits per second downloads and 20 megabits per second uploads: *Provided further*, That, in administering the pilot program under this heading in this Act, the Secretary of Agriculture

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may, for purposes of determining entities eligible to receive assistance, consider those communities which are "Areas Rural in Character", as defined in section 343(a)(13)(D) of the Consolidated Farm and Rural Development Act: *Provided further*, That not more than $50,000,000 of the funds made available under this heading in this Act for the pilot program may be used for the purpose of the preceding proviso: *Provided further*, That pole attachment fees and replacements charged by electric cooperatives for the shared use of their utility poles shall be an eligible use of funds provided under this heading in this Act for the pilot program to enable the deployment of broadband in rural areas: *Provided further*, That the Secretary shall waive any matching funds required for pilot program projects funded from amounts provided under this heading in this Act for Alaska Native Corporations for federally-recognized Tribes, on substantially underserved Trust areas, as defined in 7 U.S.C. 936f(a)(2), and residents of a rural area that was recognized as a colonia as of October 1, 1989, and for projects in which 75 percent of the service area is a persistent poverty county or counties: *Provided further*, That for purposes of the preceding proviso, the term "persistent poverty counties" means any county that has had 20 percent or more of its population living in poverty over the past 30 years, as measured by the 1990 and 2000 decennial censuses, and 2007–2011 American Community Survey 5–6 year average, or any territory or possession of the United States: *Provided further*, That, in addition to other funds available for such purpose, not more than four percent of the amounts provided under this heading in this Act shall be for administrative costs to carry out the pilot program and broadband loans: *Provided further*, That up to three percent of the amounts provided under this heading in this Act shall be for technical assistance and predevelopment planning activities to support rural communities, of which $5,000,000 shall have a priority for the establishment and growth of cooperatives to offer broadband, which shall be transferred to and merged with the appropriation for "Rural Development, Salaries and Expenses": *Provided further*, That the Secretary of Agriculture shall collaborate, to the extent practicable, with the Commissioner of the Federal Communications Commission and the Assistant Secretary for Communications and Information at the National Telecommunications and Information Administration to carry out the amounts provided under this heading in this Act for the pilot program: *Provided further*, That the Secretary may transfer funds provided under this heading in this Act between broadband loans, as authorized by section 601 of the Rural Electrification Act, and the pilot program to accommodate demand: *Provided further*, That no funds shall be transferred pursuant to the preceding proviso until the Secretary notifies in writing and receives approval from the Committees on Appropriations and Agriculture of both Houses of Congress at least 30 days in advance of the transfer of such funds or the use of such authority: *Provided further*, That for purposes of the amounts provided under this heading in this Act for the pilot program, the Secretary shall adhere to the notice, reporting, and service area assessment requirements set forth in section 701(a)–(d) of the Rural Electrification Act (7 U.S.C. 950cc(a)–(d)): *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section

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4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

GENERAL PROVISION—THIS TITLE

SEC. 101. In addition to amounts otherwise made available for such purpose, there is hereby appropriated $10,000,000, to remain available until expended, to carry out section 70501 of division G of this Act: *Provided*, That $5,000,000, to remain available until expended, shall be made available for fiscal year 2022 and $5,000,000, to remain available until expended, shall be made available for fiscal year 2023: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

TITLE II—COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES

DEPARTMENT OF COMMERCE

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

BROADBAND EQUITY, ACCESS, AND DEPLOYMENT PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Broadband Equity, Access, and Deployment Program", $42,450,000,000, to remain available until expended, for grants as authorized under section 60102 of division F of this Act: *Provided*, That not later than 90 days after the date of enactment of this Act, the Secretary of Commerce shall submit to the House and Senate Committees on Appropriations a detailed spend plan for fiscal year 2022: *Provided further*, That up to 2 percent of the amounts made available under this heading in this Act in fiscal year 2022 shall be for salaries and expenses, administration, and oversight, of which $12,000,000 shall be transferred to the Office of Inspector General of the Department of Commerce for oversight of funding provided to the National Telecommunications and Information Administration in this title in this Act: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

BROADBAND CONNECTIVITY FUND

For an additional amount for "Broadband Connectivity Fund", $2,000,000,000, to remain available until expended, for grants for the Tribal Broadband Connectivity Program, as authorized under section 905(c) of division N of the Consolidated Appropriations Act, 2021 (Public Law 116–260), as amended by section 60201

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of division F this Act: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

DIGITAL EQUITY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Digital Equity", $2,750,000,000, to remain available until expended, for competitive grants as authorized under sections 60304 and 60305 of division F of this Act: *Provided*, That of the amount provided under this heading in this Act—

(1) $550,000,000, to remain available until expended, shall be made available for fiscal year 2022, of which $60,000,000 is for the award of grants under section 60304 (c)(3) of division F of this Act, $240,000,000 is for the award of grants under section 60304(d) of division F of this Act, and $250,000,000 is for the award of grants under section 60305 of division F of this Act;

(2) $550,000,000, to remain available until expended, shall be made available for fiscal year 2023, of which $300,000,000 is for the award of grants under section 60304(d) of division F of this Act and $250,000,000 is for the award of grants under section 60305 of division F of this Act;

(3) $550,000,000, to remain available until expended, shall be made available for fiscal year 2024, of which $300,000,000 is for the award of grants under section 60304(d) of division F of this Act and $250,000,000 is for the award of grants under section 60305 of division F of this Act;

(4) $550,000,000, to remain available until expended, shall be made available for fiscal year 2025, of which $300,000,000 is for the award of grants under section 60304(d) of division F of this Act and $250,000,000 is for the award of grants under section 60305 of division F of this Act; and

(5) $550,000,000, to remain available until expended, shall be made available for fiscal year 2026, of which $300,000,000 is for the award of grants under section 60304(d) of division F of this Act and $250,000,000 is for the award of grants under section 60305 of division F of this Act:

Provided further, That the Secretary shall issue notices of funding opportunity not later than 180 days after each date upon which funds are made available under the preceding proviso: *Provided further*, That the Secretary shall make awards not later than 270 days after issuing the notices of funding opportunity required under the preceding proviso: *Provided further*, That up to 2 percent of the amounts made available in each fiscal year shall be for salaries and expenses, administration, and oversight, of which $1,000,000 in each of fiscal years 2022 through 2026 shall be transferred to the Office of Inspector General of the Department of Commerce for oversight of funding provided to the National Telecommunications and Information Administration in this title in this Act: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a)

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of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

MIDDLE MILE DEPLOYMENT

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Middle Mile Deployment", $1,000,000,000, to remain available September 30, 2026, for competitive grants as authorized under section 60401 of division F of this Act: *Provided*, That the Secretary of Commerce shall issue notices of funding opportunity not later than 180 days after the date of enactment of this Act: *Provided further*, That the Secretary of Commerce shall make awards not later than 270 days after issuing the notices of funding opportunity required under the preceding proviso: *Provided further*, That up to 2 percent of the amounts made available under this heading in this Act shall be for salaries and expenses, administration, and oversight, during fiscal years 2022 through 2026 of which $1,000,000 shall be transferred to the Office of Inspector General of the Department of Commerce for oversight of funding provided to the National Telecommunications and Information Administration in this title in this Act: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, Research, and Facilities", $2,611,000,000, to remain available until September 30, 2027: *Provided*, That $557,250,000, to remain available until September 30, 2023, shall be made available for fiscal year 2022, $515,584,000, to remain available until September 30, 2024, shall be made available for fiscal year 2023, $515,583,000, to remain available until September 30, 2025, shall be made available for fiscal year 2024, $515,583,000, to remain available until September 30, 2026, shall be made available for fiscal year 2025, and $507,000,000, to remain available until September 30, 2027, shall be made available for fiscal year 2026: *Provided further*, That of the funds made available under this heading in this Act, the following amounts shall be for the following purposes in equal amounts for each of fiscal years 2022 through 2026, including for administrative costs, technical support, and oversight, unless stated otherwise—

(1) $492,000,000 shall be for National Oceans and Coastal Security Fund grants, as authorized under section 906(c) of division O of Public Law 114–113;

(2) $491,000,000 shall be for contracts, grants, and cooperative agreements to provide funding and technical assistance for purposes of restoring marine, estuarine, coastal, or Great Lakes ecosystem habitat, or constructing or protecting ecological features that protect coastal communities from flooding or coastal storms;

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(3) $492,000,000 shall be for coastal and inland flood and inundation mapping and forecasting, and next-generation water modeling activities, including modernized precipitation frequency and probable maximum studies;

(4) $25,000,000 shall be for data acquisition activities pursuant to section 511(b) of the Water Resources Development Act of 2020 (division AA of Public Law 116–260), of which $8,334,000 shall be available in fiscal year 2023 and $8,333,000 shall be available in each of fiscal years 2024 and 2025;

(5) $50,000,000 shall be for wildfire prediction, detection, observation, modeling, and forecasting, for fiscal year 2022;

(6) $1,000,000 shall be for the study of soil moisture and snowpack monitoring network in the Upper Missouri River Basin pursuant to section 511(b)(3) of the Water Resources Development Act of 2020 (division AA of Public Law 116–260), in equal amounts for each of fiscal years 2022 through 2025;

(7) $150,000,000 shall be for marine debris assessment, prevention, mitigation, and removal;

(8) $50,000,000 shall be for marine debris prevention and removal through the National Sea Grant College Program (33 U.S.C. 1121 et seq.);

(9) $207,000,000 shall be for habitat restoration projects pursuant to section 310 of the Coastal Zone Management Act (16 U.S.C. 1456c), including ecosystem conservation pursuant to section 12502 of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 1456–1), notwithstanding subsection (g) of that section;

(10) $77,000,000 shall be for habitat restoration projects through the National Estuarine Research Reserve System (16 U.S.C. 1456c), including ecosystem conservation pursuant to section 12502 of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 1456–1);

(11) $100,000,000 shall be for supporting improved and enhanced coastal, ocean, and Great Lakes observing systems;

(12) $56,000,000 shall be for established Regional Ocean Partnerships (ROPs) to coordinate the interstate and intertribal management of ocean and coastal resources and to implement their priority actions, including to enhance associated sharing and integration of Federal and non-Federal data by ROPs, or their equivalent;

(13) $20,000,000 shall be for consultations and permitting related to the Endangered Species Act, the Marine Mammal Protection Act, and Essential Fish Habitat; and

(14) $400,000,000 shall be for restoring fish passage by removing in-stream barriers and providing technical assistance pursuant to section 117 of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (16 U.S.C. 1891a), of which up to 15 percent shall be reserved for Indian Tribes or partnerships of Indian Tribes in conjunction with an institution of higher education, non-profit, commercial (for profit) organizations, U.S. territories, and state or local governments, and of which the remaining amount shall be for all eligible entities, including Indian Tribes and such partnerships of Indian Tribes:

Provided further, That under this heading the term Indian Tribe shall have the meaning given to the term in section 4 of the

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Indian Self-Determination and Education Act (25 U.S.C. 5304): *Provided further*, That nothing under this heading in this Act shall be construed as providing any new authority to remove, breach, or otherwise alter the operations of a Federal hydropower dam and dam removal projects shall include written consent of the dam owner, if ownership is established: *Provided further*, That amounts made available under this heading in this Act may be used for consultations and permitting related to the Endangered Species Act and the Marine Mammal Protection Act for projects funded under this heading in this Act: *Provided further*, That not later than 90 days after the date of enactment of this Act, the National Oceanic and Atmospheric Administration shall submit to the Committees on Appropriations of the House of Representatives and the Senate a detailed spend plan for fiscal year 2022: *Provided further*, That for each of fiscal years 2023 through 2026, as part of the annual budget submission of the President under section 1105(a) of title 31, United States Code, the Secretary of Commerce shall submit a detailed spend plan for that fiscal year: *Provided further*, That the Secretary may waive or reduce the required non-Federal share for amounts made available under this heading in this Act: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

PROCUREMENT, ACQUISITION AND CONSTRUCTION

For an additional amount for "Procurement, Acquisition and Construction", $180,000,000, to remain available until September 30, 2024, as follows:

(1) $50,000,000 shall be for observation and dissemination infrastructure used for wildfire prediction, detection, and forecasting;

(2) $80,000,000 shall be for research supercomputing infrastructure used for weather and climate model development to improve drought, flood, and wildfire prediction, detection, and forecasting; and

(3) $50,000,000 shall be for coastal, ocean, and Great Lakes observing systems:

Provided, That not later than 90 days after the date of enactment of this Act, the National Oceanic and Atmospheric Administration shall submit to the Committees on Appropriations of the House of Representatives and the Senate a detailed spend plan: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

PACIFIC COASTAL SALMON RECOVERY

For an additional amount for "Pacific Coastal Salmon Recovery", $172,000,000, to remain available until September 30, 2027: *Provided*, That $34,400,000, to remain available until September 30, 2023, shall be made available for fiscal year 2022, $34,400,000, to remain available until September 30, 2024, shall

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be made available for fiscal year 2023, $34,400,000, to remain available until September 30, 2025, shall be made available for fiscal year 2024, $34,400,000, to remain available until September 30, 2026, shall be made available for fiscal year 2025, and $34,400,000, to remain available until September 30, 2027, shall be made available for fiscal year 2026: *Provided*, That not later than 90 days after the date of enactment of this Act, the National Oceanic and Atmospheric Administration shall submit to the Committees on Appropriations of the House of Representatives and the Senate a spend plan for fiscal year 2022: *Provided further*, That for each of fiscal years 2023 through 2026, as part of the annual budget submission of the President under section 1105(a) of title 31, United States Code, the Secretary of Commerce shall submit a detailed spend plan for that fiscal year: *Provided further*, That the Secretary may waive or reduce the required non-Federal share for amounts made available under this heading in this Act: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

TITLE III—ENERGY AND WATER DEVELOPMENT AND RELATED AGENCIES

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

INVESTIGATIONS

For an additional amount for "Investigations", $150,000,000, to remain available until expended: *Provided*, That of the amount provided under this heading in this Act, $30,000,000 shall be used by the Secretary of the Army, acting through the Chief of Engineers, to undertake work authorized to be carried out in accordance with section 22 of the Water Resources Development Act of 1974 (Public Law 93–251; 42 U.S.C. 1962d–16), as amended: *Provided further*, That of the amount provided under this heading in this Act, $45,000,000 shall be used by the Secretary of the Army, acting through the Chief of Engineers, to undertake work authorized to be carried out in accordance with section 206 of the 1960 Flood Control Act (Public Law 86–645), as amended: *Provided further*, That of the amount provided under this heading in this Act, $75,000,000 shall be used for necessary expenses related to the completion, or initiation and completion, of studies which are authorized prior to the date of enactment of this Act, of which $30,000,000, to become available on October 1, 2022, shall be used by the Secretary of the Army, acting through the Chief of Engineers, to complete, or to initiate and complete, studies carried out in accordance with section 118 of division AA of the Consolidated Appropriations Act, 2021 (Public Law 116–260), except that the limitation on the number of studies authorized to be carried out under section 118(b) and section 118(c) shall not apply: *Provided further*, That not later than 60 days after the date of enactment of this Act, the Chief of Engineers shall submit to the House and Senate Committees on Appropriations a detailed spend plan for the funds identified for fiscal year 2022 in the preceding proviso,

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including a list of project locations and new studies selected to be initiated: *Provided further*, That not later than 60 days after the date of enactment of this Act, the Chief of Engineers shall provide a briefing to the House and Senate Committees on Appropriations on an implementation plan, including a schedule for solicitation of projects and expenditure of funds, for the funding provided for fiscal year 2023 to undertake work authorized to be carried out in accordance with section 118 of division AA of the Consolidated Appropriations Act, 2021 (Public Law 116–260): *Provided further*, That for fiscal year 2023, as part of the annual budget submission of the President under section 1105(a) of title 31, United States Code, the Chief of Engineers shall submit a detailed spend plan for that fiscal year, including a list of project locations for the funding provided to undertake work authorized to be carried out in accordance with section 118 of division AA of the Consolidated Appropriations Act, 2021 (Public Law 116–260): *Provided further*, That beginning not later than 120 days after the enactment of this Act, the Chief of Engineers shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of the funds provided under this heading in this Act, including new studies selected to be initiated using funds provided under this heading: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

CONSTRUCTION

For an additional amount for "Construction", $11,615,000,000, to remain available until expended: *Provided*, That the Secretary may initiate additional new construction starts with funds provided under this heading in this Act: *Provided further*, That the limitation concerning total project costs in section 902 of the Water Resources Development Act of 1986 (Public Law 99–662; 33 U.S.C. 2280), as amended, shall not apply to any project completed using funds provided under this heading in this Act: *Provided further*, That of the amount provided under this heading in this Act, such sums as are necessary to cover the Federal share of construction costs for facilities under the Dredged Material Disposal Facilities program shall be derived from the general fund of the Treasury: *Provided further*, That of the amount provided under this heading in this Act, $1,500,000,000 shall be for major rehabilitation, construction, and related activities for rivers and harbors, of which not more than $250,000,000 shall be to undertake work at harbors defined by section 2006 of the Water Resources Development Act of 2007 (Public Law 110–114, 33 U.S.C. 2242), as amended, and not more than $250,000,000 may be for projects determined to require repair in the report prepared pursuant to section 1104 of the Water Infrastructure Improvements for the Nation Act (Public Law 114–322): *Provided further*, That of the amount provided under this heading in this Act, $200,000,000 shall be for water-related environmental infrastructure assistance: *Provided further*, That of the amount provided under this heading in this Act, $2,500,000,000 shall be for construction, replacement, rehabilitation, and expansion of inland waterways projects: *Provided further*, That section 102(a)

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of the Water Resources Development Act of 1986 (Public Law 99–662; 33 U.S.C. 2212(a)) and section 109 of the Water Resources Development Act of 2020 (Public Law 116–260; 134 Stat. 2624) shall not apply to the extent that such projects are carried out using funds provided in the preceding proviso: *Provided further*, That in using such funds referred to in the preceding proviso, the Secretary shall give priority to projects included in the Capital Investment Strategy of the Corps of Engineers: *Provided further*, That of the amount provided under this heading in this Act, $465,000,000 shall be used by the Secretary of the Army, acting through the Chief of Engineers, to undertake work authorized to be carried out in accordance with section 14, as amended, of the Flood Control Act of 1946 (33 U.S.C. 701r), section 103, as amended, of the River and Harbor Act of 1962 (Public Law 87–874), section 107, as amended, of the River and Harbor Act 1960 (Public Law 86–645), section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2326), section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), section 206 of the Water Resources Development Act of 1996 (Public Law 104–303; 33 U.S.C. 2330), section 1135 of the Water Resources Development Act of 1986 (Public Law 99–662; 33 U.S.C. 2309a), or section 165(a) of division AA of the Consolidated Appropriations Act, 2021 (Public Law 116–260), notwithstanding the project number or program cost limitations set forth in those sections: *Provided further*, That of the amounts in the preceding proviso, $115,000,000, shall be used under the aquatic ecosystem restoration program under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330) to restore fish and wildlife passage by removing in-stream barriers and provide technical assistance to non-Federal interests carrying out such activities, at full Federal expense and notwithstanding the individual project cost limitation set forth in that section: *Provided further*, That the amounts provided in the preceding proviso shall not be construed to provide any new authority to remove, breach, or otherwise alter the operations of a Federal hydropower dam, and do not limit the Secretary of the Army, acting through the Chief of Engineers, from allotting additional funds from amounts provided under this heading in this Act for other purposes allowed under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330): *Provided further*, That of the amount provided under this heading in this Act, $1,900,000,000 shall be for aquatic ecosystem restoration projects, of which not less than $1,000,000,000 shall be for multi-purpose projects or multi-purpose programs that include aquatic ecosystem restoration as a purpose: *Provided further*, That of the amount provided under this heading in this Act, $2,550,000,000 shall be for coastal storm risk management, hurricane and storm damage reduction projects, and related activities targeting States that have been impacted by federally declared disasters over the last six years, which may include projects authorized by section 116 of Public Law 111–85, of which not less than $1,000,000,000 shall be for multi-purpose projects or multi-purpose programs that include flood risk management benefits as a purpose: *Provided further*, That of the amount provided in the preceding proviso, $200,000,000 shall be for shore protection projects: *Provided further*, That of the funds in the preceding proviso, $100,000,000, to remain available until expended, shall be made available for fiscal year 2022, $50,000,000, to remain available until expended, shall be made available for fiscal year 2023, and

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$50,000,000, to remain available until expended, shall be made available for fiscal year 2024: *Provided further*, That of the amount provided under this heading in this Act, $2,500,000,000 shall be for inland flood risk management projects, of which not less than $750,000,000 shall be for multi-purpose projects or multi-purpose programs that include flood risk management as a purpose: *Provided further*, That in selecting projects under the previous proviso, the Secretary of the Army shall prioritize projects with overriding life-safety benefits: *Provided further*, That of the funds in the proviso preceding the preceding proviso, the Secretary of the Army shall, to the maximum extent practicable, prioritize projects in the work plan that directly benefit economically disadvantaged communities, and may take into consideration prioritizing projects that benefit areas in which the percentage of people that live in poverty or identify as belonging to a minority group is greater than the average such percentage in the United States, based on data from the Bureau of the Census: *Provided further*, That not later than 60 days after the date of enactment of this Act, the Chief of Engineers shall submit to the House and Senate Committees on Appropriations a detailed spend plan for the funds provided under this heading in this Act for each fiscal year, including a list of project locations and new construction projects selected to be initiated: *Provided further*, That beginning not later than 120 days after the enactment of this Act, the Chief of Engineers shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, including new construction projects selected to be initiated using funds provided under this heading in this Act: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

MISSISSIPPI RIVER AND TRIBUTARIES

For an additional amount for "Mississippi River and Tributaries", $808,000,000, to remain available until expended: *Provided*, That of the amount provided under this heading in this Act, $258,000,000, which shall be obligated within 90 days of enactment of this Act, shall be used for necessary expenses to address emergency situations at Corps of Engineers Federal projects caused by natural disasters: *Provided further*, That the Secretary may initiate additional new construction starts with funds provided under this heading in this Act: *Provided further*, That the limitation concerning total project costs in section 902 of the Water Resources Development Act of 1986 (Public Law 99–662; 33 U.S.C. 2280), as amended, shall not apply to any project receiving funds provided under this heading in this Act: *Provided further*, That not later than 60 days after the date of enactment of this Act, the Chief of Engineers shall submit to the House and Senate Committees on Appropriations a detailed spend plan for fiscal year 2022, including a list of project locations and construction projects selected to be initiated: *Provided further*, That of the amount provided under this heading in this Act, such sums as are necessary to cover the Federal share of eligible operation and maintenance costs

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for inland harbors shall be derived from the general fund of the Treasury: *Provided further*, That beginning not later than 120 days after the enactment of this Act, the Chief of Engineers shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, including construction projects selected to be initiated using funds provided under this heading in this Act: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

OPERATION AND MAINTENANCE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Operations and Maintenance", $4,000,000,000, to remain available until expended: *Provided*, That $2,000,000,000, to remain available until expended, shall be made available for fiscal year 2022, $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2023, $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2024: *Provided further*, That of the amount provided under this heading in this Act for fiscal year 2022, $626,000,000, which shall be obligated within 90 days of enactment of this Act, shall be used for necessary expenses to dredge Federal navigation projects in response to, and repair damages to Corps of Engineers Federal projects caused by, natural disasters: *Provided further*, That of the amount provided under this heading in this Act, $40,000,000 shall be to carry out Soil Moisture and Snowpack Monitoring activities, as authorized in section 4003(a) of the Water Resources Reform and Development Act of 2014, as amended: *Provided further*, That not later than 60 days after the date of enactment of this Act, the Chief of Engineers shall submit to the House and Senate Committees on Appropriations a detailed spend plan for fiscal year 2022, including a list of project locations, other than for the amount for natural disasters identified in the second proviso: *Provided further*, That for fiscal years 2023 and 2024, as part of the annual budget submission of the President under section 1105(a) of title 31, United States Code, the Chief of Engineers shall submit a detailed spend plan for that fiscal year, including a list of project locations: *Provided further*, That of the amount provided under this heading in this Act, such sums as are necessary to cover the Federal share of eligible operation and maintenance costs for coastal harbors and channels, and for inland harbors shall be derived from the general fund of the Treasury: *Provided further*, That up to three percent of the amounts made available under this heading in this Act for any fiscal year may be transferred to "Regulatory Program" or "Expenses" to carry out activities funded by those accounts: *Provided further*, That the Committees on Appropriations of the Senate and the House of Representatives shall be notified at least 30 days in advance of any transfer made pursuant to the preceding proviso: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the

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budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

REGULATORY PROGRAM

For an additional amount for "Regulatory Program", $160,000,000, to remain available until September 30, 2026: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for "Flood Control and Coastal Emergencies", $251,000,000, to remain available until expended: *Provided*, That funding provided under this heading in this Act and utilized for authorized shore protection projects shall restore such projects to the full project profile at full Federal expense: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

EXPENSES

For an additional amount for "Expenses", $40,000,000, to remain available until expended: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

WATER INFRASTRUCTURE FINANCE AND INNOVATION PROGRAM ACCOUNT

For an additional amount for "Water Infrastructure Finance and Innovation Program Account", $75,000,000, to remain available until expended: *Provided*, That of the amounts provided under this heading in this Act, $64,000,000 shall be for the cost of direct loans and for the cost of guaranteed loans, for safety projects to maintain, upgrade, and repair dams identified in the National Inventory of Dams with a primary owner type of state, local government, public utility, or private: *Provided further*, That no project may be funded with amounts provided under this heading for a dam that is identified as jointly owned in the National Inventory of Dams and where one of those joint owners is the Federal Government: *Provided further*, That of the amounts provided under this heading in this Act $11,000,000 shall be for administrative expenses to carry out the direct and guaranteed loan programs, notwithstanding section 5033 of the Water Infrastructure Finance and Innovation Act of 2014: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and

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to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

GENERAL PROVISIONS—CORPS OF ENGINEERS

SEC. 300. For projects that are carried out with funds under this heading, the Secretary of the Army and the Director of the Office of Management and Budget shall consider other factors in addition to the benefit-cost ratio when determining the economic benefits of projects that benefit disadvantaged communities.

DEPARTMENT OF THE INTERIOR

CENTRAL UTAH PROJECT

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For an additional amount for "Central Utah Project Completion Account", $50,000,000, to remain available until expended, of which $10,000,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account for use by the Utah Reclamation Mitigation and Conservation Commission: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

BUREAU OF RECLAMATION

WATER AND RELATED RESOURCES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Water and Related Resources", $8,300,000,000, to remain available until expended: *Provided*, That $1,660,000,000, to remain available until expended, shall be made available for fiscal year 2022, $1,660,000,000, to remain available until expended, shall be made available for fiscal year 2023, $1,660,000,000, to remain available until expended, shall be made available for fiscal year 2024, $1,660,000,000, to remain available until expended, shall be made available for fiscal year 2025, $1,660,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the amount provided under this heading in this Act for fiscal years 2022 through 2026, $1,150,000,000 shall be for water storage, groundwater storage, and conveyance projects in accordance with section 40902 of division D of this Act: *Provided further*, That of the funds identified in the preceding proviso, $100,000,000 shall be available for small surface water and ground water storage projects authorized in section 40903 of division D of this Act: *Provided further*, That of the amount provided under this heading in this Act, $3,200,000,000 shall be available for transfer into the Aging Infrastructure Account established by section 9603(d)(1) of the Omnibus Public Land Management Act of 2009, as amended (43 U.S.C. 510b(d)(1)): *Provided further*, That of the funds identified in the preceding proviso, $100,000,000 shall be made available for reserved

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or transferred works that have suffered a critical failure, in accordance with section 40904(a) of division D of this Act, and $100,000,000 shall be made available for dam rehabilitation, reconstruction, or replacement in accordance with section 40904(b) of division D of this Act: *Provided further*, That of the amount provided under this heading in this Act for fiscal years 2022 through 2026, $1,000,000,000 shall be for rural water projects that have been authorized by an Act of Congress before July 1, 2021, in accordance with the Reclamation Rural Water Supply Act of 2006 (43 U.S.C. 2401 et seq.): *Provided further*, That of the amount provided under this heading in this Act for fiscal years 2022 through 2026, $1,000,000,000 shall be for water recycling and reuse projects: *Provided further*, That of the funds identified in the preceding proviso, $550,000,000 shall be for water recycling and reuse projects authorized in accordance with the Reclamation Wastewater and Groundwater Study and Facilities Act (42 U.S.C. 390h et seq.), as described in section 40901(4)(A) of division D of this Act, and $450,000,000 shall be for large-scale water recycling and reuse projects in accordance with section 40905 of division D of this Act: *Provided further*, That of the amount provided under this heading in this Act for fiscal years 2022 through 2026, $250,000,000 shall be for water desalination projects in accordance with the Water Desalinization Act of 1996 (42 U.S.C. 10301 note; Public Law 104–298), as described in section 40901(5) of division D of this Act: *Provided further*, That of the amount provided under this heading in this Act for fiscal years 2022 through 2026, $500,000,000 shall be for the safety of dams program, in accordance with the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 506 et seq.): *Provided further*, That of the amount provided under this heading in this Act for fiscal years 2022 through 2026, $400,000,000 shall be for WaterSMART Grants in accordance with section 9504 of the Omnibus Public Land Management Act of 2009 (42 U.S.C. 10364): *Provided further*, That of the funds identified in the preceding proviso, $100,000,000 shall be for projects that would improve the condition of a natural feature or nature-based feature, as described in section 40901(7) of division D of this Act: *Provided further*, That of the amount provided under this heading in this Act for fiscal years 2022 through 2026, $300,000,000 shall be for implementing the drought contingency plan consistent with the obligations of the Secretary under the Colorado River Drought Contingency Plan Authorization Act (Public Law 116–14; 133 Stat. 850), as described in section 40901(8) of division D of this Act: *Provided further*, That of the funds identified in the preceding proviso, $50,000,000 shall be for use in accordance with the Drought Contingency Plan for the Upper Colorado River Basin: *Provided further*, That of the amount provided under this heading in this Act for fiscal years 2022 through 2026, $100,000,000 shall be to provide financial assistance for watershed management projects in accordance with subtitle A of title VI of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 1015 et seq.): *Provided further*, That of the amount provided under this heading in this Act for fiscal years 2022 through 2026, $250,000,000 shall be for design, study and construction of aquatic ecosystem restoration and protection projects in accordance with section 1109 of the Consolidated Appropriations Act, 2021: *Provided further*, That of the amount provided under this heading in this Act for fiscal years 2022 through 2026, $100,000,000 shall be for multi-benefit

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projects to improve watershed health in accordance with section 40907 of division D of this Act: *Provided further*, That of the amounts provided under this heading in this Act for fiscal years 2022 through 2026, $50,000,000 shall be for endangered species recovery and conservation programs in the Colorado River Basin in accordance with Public Law 106–392, title XVIII of Public Law 102–575, and subtitle E of title IX of Public Law 111–11: *Provided further*, That up to three percent of the amounts made available under this heading in this Act in each of fiscal years 2022 through 2026 shall be for program administration and policy expenses: *Provided further*, That not later than 60 days after the date of enactment of this Act, the Secretary of the Interior shall submit to the House and Senate Committees on Appropriations a detailed spend plan, including a list of project locations of the preceding proviso, to be funded for fiscal year 2022: *Provided further*, That beginning not later than 120 days after the enactment of this Act, the Secretary of the Interior shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of the funds provided under this heading in this Act: *Provided further*, That for fiscal years 2023 through 2026, as part of the annual budget submission of the President under section 1105(a) of title 31, United States Code, the Secretary of the Interior shall submit a detailed spend plan for those fiscal years, including a list of project locations: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

ENERGY EFFICIENCY AND RENEWABLE ENERGY

For an additional amount for "Energy Efficiency and Renewable Energy", $16,264,000,000 to remain available until expended: *Provided*, That of the amount provided under this heading in this Act, $250,000,000 shall be for activities for the Energy Efficiency Revolving Loan Fund Capitalization Grant Program, as authorized under section 40502 of division D of this Act: *Provided further*, That of the amount provided under this heading in this Act, $40,000,000 shall be for grants for the Energy Auditor Training Grant Program, as authorized under section 40503 of division D of this Act: *Provided further*, That of the amount provided under the heading in this Act, $225,000,000 shall be for grants for implementing of updated building energy codes, as authorized under section 309 of the Energy Conservation and Production Act (42 U.S.C. 6831 et seq.), as amended by section 40511(a) of division D of this Act: *Provided further*, That of the funds in the preceding proviso, $45,000,000, to remain available until expended, shall be made available for fiscal year 2022, $45,000,000, to remain available until expended, shall be made available for fiscal year 2023, $45,000,000, to remain available until expended, shall be made available for fiscal year 2024, $45,000,000, to remain available

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until expended, shall be made available for fiscal year 2025, and $45,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the amount provided under this heading in this Act, $10,000,000 shall be for Building, Training, and Assessment Centers, as authorized under section 40512 of division D of this Act: *Provided further*, That of the amount provided under this heading in this Act, $10,000,000 shall be for grants for Career Skills Training, as authorized under section 40513 of division D of this Act: *Provided further*, That of the amount provided under this heading in this Act, $150,000,000 shall be for activities for Industrial Research and Assessment Centers, as authorized under subsections (a) through (h) of section 457 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17111 et seq.), as amended by section 40521(b) of division D of this Act: *Provided further*, That of the funds in the preceding proviso, $30,000,000, to remain available until expended, shall be made available for fiscal year 2022, $30,000,000, to remain available until expended, shall be made available for fiscal year 2023, $30,000,000, to remain available until expended, shall be made available for fiscal year 2024, $30,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $30,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the amount provided under this heading in this Act, $400,000,000 shall be for activities for Implementation Grants for Industrial Research and Assessment Centers, as authorized under section 457(i) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17111 et seq.), as amended by section 40521(b) of division D of this Act: *Provided further*, That of the funds in the preceding two provisos, $80,000,000, to remain available until expended, shall be made available for fiscal year 2022, $80,000,000, to remain available until expended, shall be made available for fiscal year 2023, $80,000,000, to remain available until expended, shall be made available for fiscal year 2024, $80,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $80,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the amount provided under this heading in this Act, $50,000,000 shall be for carrying out activities for Manufacturing Leadership, as authorized under section 40534 of division D of this Act: *Provided further*, That of the amount provided under this heading in this Act, $500,000,000 shall be for grants for Energy Efficiency Improvements and Renewable Energy Improvements at Public School Facilities, as authorized under section 40541 of division D of this Act: *Provided further*, That of the funds in the preceding proviso, $100,000,000, to remain available until expended, shall be made available for fiscal year 2022, $100,000,000, to remain available until expended, shall be made available for fiscal year 2023, $100,000,000, to remain available until expended, shall be made available for fiscal year 2024, $100,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $100,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the amount provided under this heading in this Act, $50,000,000 shall be for grants for the Energy Efficiency Materials Pilot Program, as authorized under section 40542 of division D of this Act: *Provided further*, That of the amount provided under this heading in this Act and in addition

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to amounts otherwise made available for this purpose, $3,500,000,000 shall be for carrying out activities for the Weatherization Assistance Program, as authorized under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.): *Provided further*, That of the amount provided under this heading in this Act and in addition to amounts otherwise made available for this purpose, $550,000,000 shall be for carrying out activities for the Energy Efficiency and Conservation Block Grant Program, as authorized under section 542(a) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17152(a)): *Provided further*, That of the amount provided under this heading in this Act, $250,000,000 shall be for grants for the Assisting Federal Facilities with Energy Conservation Technologies Grant Program, as authorized under section 546(b) of the National Energy Conservation Policy Act (42 U.S.C. 8256(b)): *Provided further*, That of the amount provided under this heading in this Act, $10,000,000 shall be for extended product system rebates, as authorized under section 1005 of the Energy Act of 2020 (42 U.S.C. 6311 note; Public Law 116–260): *Provided further*, That of the amount provided under this heading in this Act, $10,000,000 shall be for energy efficient transformer rebates, as authorized under section 1006 of the Energy Act of 2020 (42 U.S.C. 6317 note; Public Law 116–260): *Provided further*, That of the amount provided under this heading in this Act, $3,000,000,000, to remain available until expended, shall be for Battery Material Processing Grants, as authorized under section 40207(b) of division D of this Act: *Provided further*, That of the funds in the preceding proviso, $600,000,000, to remain available until expended, shall be made available for fiscal year 2022, $600,000,000, to remain available until expended, shall be made available for fiscal year 2023, $600,000,000, to remain available until expended, shall be made available for fiscal year 2024, $600,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $600,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the amount provided under this heading in this Act, $3,000,000,000 shall be for Battery Manufacturing and Recycling Grants, as authorized under section 40207(c) of division D of this Act: *Provided further*, That of the funds in the preceding proviso, $600,000,000, to remain available until expended, shall be made available for fiscal year 2022, $600,000,000, to remain available until expended, shall be made available for fiscal year 2023, $600,000,000, to remain available until expended, shall be made available for fiscal year 2024, $600,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $600,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the amount provided under this heading in this Act, $125,000,000 shall be to carry out activities, as authorized under section 40207(f) of division D of this Act: *Provided further*, That of the amount provided under this heading in this Act, $10,000,000 shall be for a Lithium-Ion Battery Recycling Prize Competition, as authorized under section 40207(e) of division D of this Act: *Provided further*, That of the amount provided under this heading in this Act, $200,000,000 shall be for grants for the Electric Drive Vehicle Battery Recycling and Second-Life Applications Program, as authorized under subsection (k) of section 641 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17231), as amended by section

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40208(1) of division D of this Act: *Provided further*, That of the funds in the preceding proviso, $40,000,000, to remain available until expended, shall be made available for fiscal year 2022, $40,000,000, to remain available until expended, shall be made available for fiscal year 2023, $40,000,000, to remain available until expended, shall be made available for fiscal year 2024, $40,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $40,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the amount provided under this heading in this Act, $750,000,000 shall be for grants for the Advanced Energy Manufacturing and Recycling Grant Program, as authorized under section 40209 of division D of this Act: *Provided further*, That of the funds in the preceding proviso, $150,000,000, to remain available until expended, shall be made available for fiscal year 2022, $150,000,000, to remain available until expended, shall be made available for fiscal year 2023, $150,000,000, to remain available until expended, shall be made available for fiscal year 2024, $150,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $150,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the amount provided under this heading in this Act, $500,000,000 shall be for activities for the Clean Hydrogen Manufacturing Recycling Research, Development, and Demonstration Program, as authorized under section 815 of the Energy Policy Act of 2005 (42 U.S.C. 16151 et seq.), as amended by section 40314 of division D of this Act: *Provided further*, That of the funds in the preceding proviso, $100,000,000, to remain available until expended, shall be made available for fiscal year 2022, $100,000,000, to remain available until expended, shall be made available for fiscal year 2023, $100,000,000, to remain available until expended, shall be made available for fiscal year 2024, $100,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $100,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the amount provided under the heading in this Act, $1,000,000,000 shall be for activities for the Clean Hydrogen Electrolysis Program, as authorized under section 816 of the Energy Policy Act of 2005 (42 U.S.C. 16151 et seq.), as amended by section 40314 of division D of this Act: *Provided further*, That of the funds in the preceding proviso, $200,000,000, to remain available until expended, shall be made available for fiscal year 2022, $200,000,000, to remain available until expended, shall be made available for fiscal year 2023, $200,000,000, to remain available until expended, shall be made available for fiscal year 2024, $200,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $200,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the amount provided under this heading in this Act, $500,000,000 shall be for carrying out activities for the State Energy Program, as authorized under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.), as amended by section 40109 of division D of this Act: *Provided further*, That of the amount provided under this heading in this Act, $125,000,000 shall be for carrying out activities under section 242 of the Energy Policy Act of 2005 (42 U.S.C. 15881), as amended by section 40331 of division D of this Act: *Provided*

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further, That of the amount provided under this heading in this Act, $75,000,000 shall be for carrying out activities under section 243 of the Energy Policy Act of 2005 (42 U.S.C. 15882), as amended by section 40332 of division D of this Act: *Provided further*, That of the amount provided under this heading in this Act, $553,600,000 shall be for activities for Hydroelectric Incentives, as authorized under section 247 of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 674), as amended by section 40333(a) of division D of this Act: *Provided further*, That of the funds in the preceding proviso, $276,800,000, to remain available until expended, shall be made available for fiscal year 2022, $276,800,000, to remain available until expended, shall be made available for fiscal year 2023: *Provided further*, That of the amount provided under the heading in this Act, $10,000,000 shall be for activities for the Pumped Storage Hydropower Wind and Solar Integration and System Reliability Initiative, as authorized under section 3201 of the Energy Policy Act of 2020 (42 U.S.C. 17232), as amended by section 40334 of division D of this Act: *Provided further*, That of the amount provided under this heading in this Act, $36,000,000 shall be for carrying out activities, as authorized under section 634 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17213): *Provided further*, That of the amount provided under this heading in this Act, $70,400,000 shall be for carrying out activities, as authorized under section 635 of the Energy Independence and Security Act of 2007 (42 U.S.C.17214): *Provided further*, That of the amount provided under this heading in this Act, $40,000,000 shall be for carrying out activities for the National Marine Energy Centers, as authorized under section 636 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17215): *Provided further*, That of the amount provided under this heading in this Act, $84,000,000 shall be for carrying out activities under section 615(d) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17194(d)): *Provided further*, That of the amount provided under this heading in this Act, $60,000,000 shall be for carrying out activities for the Wind Energy Technology Program, as authorized under section 3003(b)(2) of the Energy Act of 2020 (42 U.S.C. 16237(b)(2)): *Provided further*, That of the amount provided under this heading in this Act, $40,000,000 shall be for carrying out activities for the Wind Energy Technology Recycling Research, Development, and Demonstration Program, as authorized under section 3003(b)(4) of the Energy Act of 2020 (42 U.S.C. 16237(b)(4)): *Provided further*, That of the amount provided under this heading in this Act, $40,000,000 shall be for carrying out activities under section 3004(b)(2) of the Energy Act of 2020 (42 U.S.C. 16238(b)(2)): *Provided further*, That of the amount provided under this heading in this Act, $20,000,000 shall be for carrying out activities under section 3004(b)(3) of the Energy Act of 2020 (42 U.S.C. 16238(b)(3)): *Provided further*, That of the amount provided under this heading in this Act, $20,000,000 shall be for carrying out activities under section 3004(b)(4) of the Energy Act of 2020 (42 U.S.C. 16238(b)(4)): *Provided further*, That not later than 90 days after the date of enactment of this Act, the Secretary of Energy shall submit to the House and Senate Committees on Appropriations and the Senate Committee on Energy and Natural Resources and the House Committee on Energy and Commerce a detailed spend plan for fiscal year 2022: *Provided further*, That for each fiscal year through 2026, as part of the annual budget

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submission of the President under section 1105(a) of title 31, United States Code, the Secretary of Energy shall submit a detailed spend plan for that fiscal year: *Provided further*, That up to three percent of the amounts made available under this heading in this Act in each of fiscal years 2022 through 2026 shall be for program direction: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

CYBERSECURITY, ENERGY SECURITY, AND EMERGENCY RESPONSE

For an additional amount for "Cybersecurity, Energy Security, and Emergency Response", $550,000,000, to remain available until expended: *Provided*, That of the amount provided under this heading in this Act, $250,000,000 shall be to carry out activities under the Cybersecurity for the Energy Sector Research, Development, and Demonstration Program, as authorized in section 40125(b) of division D of this Act: *Provided further*, That of the funds in the preceding proviso, $50,000,000, to remain available until expended, shall be made available for fiscal year 2022, $50,000,000, to remain available until expended, shall be made available for fiscal year 2023, $50,000,000, to remain available until expended, shall be made available for fiscal year 2024, $50,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $50,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the amount provided under this heading in this Act, $50,000,000 shall be to carry out activities under the Energy Sector Operational Support for Cyberresilience Program, as authorized in section 40125(c) of division D of this Act: *Provided further*, That of the amount provided under this heading in this Act, $250,000,000, to carry out activities under the Rural and Municipal Utility Advanced Cybersecurity Grant and Technical Assistance Program, as authorized in section 40124 of division D of this Act: *Provided further*, That $50,000,000, to remain available until expended, shall be made available for fiscal year 2022, $50,000,000, to remain available until expended, shall be made available for fiscal year 2023, $50,000,000, to remain available until expended, shall be made available for fiscal year 2024, $50,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $50,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That not later than 90 days after the date of enactment of this Act, the Secretary of Energy shall submit to the House and Senate Committees on Appropriations and the Senate Committee on Energy and Natural Resources and the House Committee on Energy and Commerce a detailed spend plan for fiscal year 2022: *Provided further*, That for each fiscal year through 2026, as part of the annual budget submission of the President under section 1105(a) of title 31, United States Code, the Secretary of Energy shall submit a detailed spend plan for that fiscal year: *Provided further*, That up to three percent of the amounts made available under this heading in this Act in each of fiscal years 2022 through 2026 shall be for program direction: *Provided further*,

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That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

ELECTRICITY

For an additional amount for "Electricity", $8,100,000,000, to remain available until expended: *Provided*, That of the amount provided under this heading in this Act, $5,000,000,000 shall be for grants under section 40101 of division D of this Act: *Provided further*, That of the funds in the preceding proviso, $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2022, $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2023, $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2024, $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the amount provided under this heading in this Act, $50,000,000 shall be to carry out the Transmission Facilitation Program, including for any administrative expenses of carrying out the program, as authorized in section 40106(d)(3) of division D of this Act: *Provided further*, That of the funds in the preceding proviso, $10,000,000, to remain available until expended, shall be made available for fiscal year 2022, $10,000,000, to remain available until expended, shall be made available for fiscal year 2023, $10,000,000, to remain available until expended, shall be made available for fiscal year 2024, $10,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $10,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the amount provided under this heading in this Act and in addition to amounts otherwise made available for this purpose, $3,000,000,000, to remain available until expended, shall be to carry out activities under the Smart Grid Investment Matching Grant Program, as authorized in section 1306 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17386), as amended by section 40107 of division D of this Act: *Provided further*, That of the funds in the preceding proviso, $600,000,000, to remain available until expended, shall be made available for fiscal year 2022, $600,000,000, to remain available until expended, shall be made available for fiscal year 2023, $600,000,000, to remain available until expended, shall be made available for fiscal year 2024, $600,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $600,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the amount provided under this heading in this Act, $50,000,000 shall be to carry out an advanced energy security program to secure energy networks, as authorized under section 40125(d) of division D of this Act: *Provided further*, That not later than 90 days after the date of enactment of this Act, the Secretary of Energy shall submit to the House and Senate Committees on Appropriations and the Senate Committee on Energy and Natural Resources and the House Committee on Energy and Commerce a detailed spend plan for fiscal year 2022: *Provided*

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further, That for each fiscal year through 2026, as part of the annual budget submission of the President under section 1105(a) of title 31, United States Code, the Secretary of Energy shall submit a detailed spend plan for that fiscal year: *Provided further*, That up to three percent of the amounts made available under this heading in this Act in each of fiscal years 2022 through 2026 shall be for program direction: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

NUCLEAR ENERGY

For an additional amount for "Nuclear Energy", $6,000,000,000, to remain available until expended, to carry out activities under the Civil Nuclear Credit Program, as authorized in section 40323 of division D of this Act: *Provided*, That $1,200,000,000, to remain available until expended, shall be made available for fiscal year 2022, $1,200,000,000, to remain available until expended, shall be made available for fiscal year 2023, $1,200,000,000, to remain available until expended, shall be made available for fiscal year 2024, $1,200,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $1,200,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That not later than 90 days after the date of enactment of this Act, the Secretary of Energy shall submit to the House and Senate Committees on Appropriations a detailed spend plan for fiscal year 2022: *Provided further*, That for each fiscal year through 2026, as part of the annual budget submission of the President under section 1105(a) of title 31, United States Code, the Secretary of Energy shall submit a detailed spend plan for that fiscal year: *Provided further*, That up to $36,000,000 of the amount provided under this heading in this Act shall be made available in each of fiscal years 2022 through 2026 for program direction: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

FOSSIL ENERGY AND CARBON MANAGEMENT

For an additional amount for "Fossil Energy and Carbon Management", $7,497,140,781, to remain available until expended: *Provided*, That of the amount provided under this heading in this Act, $310,140,781 shall be to carry out activities under the Carbon Utilization Program, as authorized in section 969A of the Energy Policy Act of 2005 (42 U.S.C. 16298a), as amended by section 40302 of division D of this Act: *Provided further*, That of the funds in the preceding proviso, $41,000,000, to remain available until expended, shall be made available for fiscal year 2022, $65,250,000, to remain available until expended, shall be made available for fiscal year 2023, $66,562,500, to remain available until expended, shall be made available for fiscal year 2024, $67,940,625, to remain available until expended, shall be made

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available for fiscal year 2025, and $69,387,656, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the amount provided under this heading in this Act, $100,000,000 shall be used to carry out the front-end engineering and design program out activities under the Carbon Capture Technology Program, as authorized in section 962 of the Energy Policy Act of 2005 (42 U.S.C. 16292), as amended by section 40303 of division D of this Act: *Provided further*, That of the funds in the preceding proviso, $20,000,000, to remain available until expended, shall be made available for fiscal year 2022, $20,000,000, to remain available until expended, shall be made available for fiscal year 2023, $20,000,000, to remain available until expended, shall be made available for fiscal year 2024, $20,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $20,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the amount provided under this heading in this Act, $2,500,000,000 shall be to carry out activities for the Carbon Storage Validation and Testing, as authorized section 963 of the Energy Policy Act of 2005 (42 U.S.C. 16293), as amended by section 40305 of division D of this Act: *Provided further*, That of the funds in the preceding proviso, $500,000,000, to remain available until expended, shall be made available for fiscal year 2022, $500,000,000, to remain available until expended, shall be made available for fiscal year 2023, $500,000,000, to remain available until expended, shall be made available for fiscal year 2024, $500,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $500,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the amount provided under this heading in this Act, $3,500,000,000 shall be to carry out a program to develop four regional clean direct air capture hubs, as authorized under section 969D of the Energy Policy Act of 2005 (42 U.S.C. 16298d), as amended by section 40308 of division D of this Act: *Provided further*, That of the funds in the preceding proviso, $700,000,000, to remain available until expended, shall be made available for fiscal year 2022, $700,000,000, to remain available until expended, shall be made available for fiscal year 2023, $700,000,000, to remain available until expended, shall be made available for fiscal year 2024, $700,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $700,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the amount provided under this heading in this Act and in addition to amounts otherwise made available for this purpose, $15,000,000 shall be for precommercial direct air capture technology prize competitions, as authorized under section 969D(e)(2)(A) of the Energy Policy Act of 2005 (42 U.S.C. 16298d(e)(2)(A)): *Provided further*, That of the amount provided under this heading in this Act and in addition to amounts otherwise made available for this purpose, $100,000,000 shall be for commercial direct air capture technology prize competitions, as authorized under section 969D(e)(2)(B) of the Energy Policy Act of 2005 (42 U.S.C. 16298d(e)(2)(B)): *Provided further*, That for amounts identified in the preceding proviso, the Secretary shall enter pre-construction commitments with selected projects for future awards for qualified carbon dioxide capture: *Provided further*, That of the amount provided under this heading

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in this Act, $140,000,000 shall be for a Rare Earth Elements Demonstration Facility, as authorized under section 7001 of the Energy Act of 2020 (42 U.S.C. 13344), as amended by section 40205 of division D of this Act: *Provided further*, That of the amount provided under this heading in this Act and in addition to amounts otherwise made available for this purpose, $127,000,000 shall be to carry out rare earth mineral security activities, as authorized under section 7001(a) of the Energy Act of 2020 (42 U.S.C. 13344(a)): *Provided further*, That of the funds in the preceding proviso, $23,000,000, to remain available until expended, shall be made available for fiscal year 2022, $24,200,000, to remain available until expended, shall be made available for fiscal year 2023, $25,400,000, to remain available until expended, shall be made available for fiscal year 2024, $26,600,000, to remain available until expended, shall be made available for fiscal year 2025, and $27,800,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the amount provided under this heading in this Act and in addition to amounts otherwise made available for this purpose, $600,000,000 shall be to carry out critical material innovation, efficiency, and alternatives activities under section 7002(g) of the Energy Act of 2020 (30 U.S.C. 1606(g)): *Provided further*, That of the funds in the preceding proviso, $230,000,000, to remain available until expended, shall be made available for fiscal year 2022, $100,000,000, to remain available until expended, shall be made available for fiscal year 2023, $135,000,000, to remain available until expended, shall be made available for fiscal year 2024, $135,000,000, to remain available until expended, shall be made available for fiscal year 2025: *Provided further*, That of the amount provided under this heading in this Act and in addition to amounts otherwise made available for this purpose, $75,000,000 shall be for the Critical Material Supply Chain Research Facility, as authorized under section 7002(h) of the Energy Act of 2020 (30 U.S.C. 1606(h)): *Provided further*, That of the funds in the preceding proviso, $40,000,000, to remain available until expended, shall be made available for fiscal year 2022, and $35,000,000, to remain available until expended, shall be made available for fiscal year 2023: *Provided further*, That of the amount provided under this heading in this Act, $30,000,000 shall be to carry out activities authorized in section 349(b)(2) of the Energy Policy Act of 2005 (42 U.S.C.15907(b)(2)), as amended by section 40601 of division D of this Act: *Provided further*, That not later than 90 days after the date of enactment of this Act, the Secretary of Energy shall submit to the House and Senate Committees on Appropriations a detailed spend plan for fiscal year 2022: *Provided further*, That for each fiscal year through 2026, as part of the annual budget submission of the President under section 1105(a) of title 31, United States Code, the Secretary of Energy shall submit a detailed spend plan for that fiscal year: *Provided further*, That up to three percent of the amounts made available under this heading in this Act in each of fiscal years 2022 through 2026 shall be for program direction: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

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CARBON DIOXIDE TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION PROGRAM ACCOUNT

For an additional amount for "Carbon Dioxide Transportation Infrastructure Finance and Innovation Program Account", $2,100,000,000, to remain available until expended, to carry out activities for the Carbon Dioxide Transportation Infrastructure Finance and Innovation Program, as authorized by subtitle J of title IX of the Energy Policy Act of 2005 (42 U.S.C. 16181 et seq.), as amended by section 40304(a) of division D of this Act: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That $3,000,000, to remain available until expended, shall be made available for fiscal year 2022 and $2,097,000,000, to remain available until expended, shall be made available for fiscal year 2023: *Provided further*, That the amount made available under this heading in this Act for fiscal year 2022 shall be for administrative expenses to carry out the loan program: *Provided further*, That the Office of Fossil Energy and Carbon Management shall oversee the Carbon Dioxide Transportation Infrastructure Finance and Innovation program, in consultation and coordination with the Department of Energy's Loan Program Office: *Provided further*, That not later than 270 days after the date of enactment of this Act, the Secretary of Energy shall submit to the House and Senate Committees on Appropriations an analysis of how subsidy rates will be determined for loans financed by appropriations provided under this heading in this Act and an analysis of the process for developing draft regulations for the program, including a crosswalk from the statutory requirements for such program, and a timetable for publishing such regulations: *Provided further*, That for each fiscal year through 2027, the annual budget submission of the President under section 1105(a) of title 31, United States Code, shall include a detailed request for the amount recommended for allocation for the Carbon Dioxide Transportation Finance and Innovation program from amounts provided under this heading in this Act and such detailed request shall include any information required pursuant to the Federal Credit Reform Act of 1990, such as credit subsidy rates, a loan limitation, and necessary administrative expenses to carry out the loan program: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

OFFICE OF CLEAN ENERGY DEMONSTRATIONS

For an additional amount for "Office of Clean Energy Demonstrations", $21,456,000,000, to remain available until expended: *Provided*, That the Office of Clean Energy Demonstrations, as authorized by section 41201 of division D of this Act, shall conduct administrative and project management responsibilities for the demonstration projects provided for under this heading in this Act: *Provided further*, That the Office of Clean Energy Demonstrations shall consult and coordinate with technology-specific program offices to ensure alignment of technology goals and avoid unnecessary duplication: *Provided further*, That of the amount provided

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under this heading in this Act and in addition to amounts otherwise made available for this purpose, $355,000,000 shall be to carry out the Energy Storage Demonstration Pilot Grant Program, as authorized under section 3201(c) of the Energy Act of 2020 (42 U.S.C. 17232(c)): *Provided further*, That of the funds in the preceding proviso, $88,750,000, to remain available until expended, shall be made available for fiscal year 2022, $88,750,000, to remain available until expended, shall be made available for fiscal year 2023, $88,750,000, to remain available until expended, shall be made available for fiscal year 2024, $88,750,000, to remain available until expended, shall be made available for fiscal year 2025: *Provided further*, That of the amount provided under this heading in this Act and in addition to amounts otherwise made available for this purpose, $150,000,000 to carry out the Long-duration Demonstration Initiative and Joint Program, as authorized under section 3201(d) of the Energy Act of 2020 (42 U.S.C. 17232(d)): *Provided further*, That of the funds in the preceding proviso, $37,500,000, to remain available until expended, shall be made available for fiscal year 2022, $37,500,000, to remain available until expended, shall be made available for fiscal year 2023, $37,500,000, to remain available until expended, shall be made available for fiscal year 2024, $37,500,000, to remain available until expended, shall be made available for fiscal year 2025: *Provided further*, That of the amount provided under this heading in this Act and in addition to amounts otherwise made available for this purpose, $2,477,000,000 shall be to carry out the Advanced Reactor Demonstration Program, as authorized under section 959A of the Energy Policy Act of 2005 (42 U.S.C. 16279a): *Provided further*, That of the funds in the preceding proviso, $677,000,000, to remain available until expended, shall be made available for fiscal year 2022, $600,000,000, to remain available until expended, shall be made available for fiscal year 2023, $600,000,000, to remain available until expended, shall be made available for fiscal year 2024, $600,000,000, to remain available until expended, shall be made available for fiscal year 2025: *Provided further*, That funds in the preceding proviso shall be for projects selected prior to the date of enactment of this Act: *Provided further*, That of the amount provided under this heading in this Act and in addition to amounts otherwise made available for this purpose, $937,000,000 shall be to carry out the Carbon Capture Large-scale Pilot Projects, as authorized under section 962(b)(2)(B) of the Energy Policy Act of 2005 (42 U.S.C. 16292(b)(2)(B)): *Provided further*, That of the funds in the preceding proviso, $387,000,000, to remain available until expended, shall be made available for fiscal year 2022, $200,000,000, to remain available until expended, shall be made available for fiscal year 2023, $200,000,000, to remain available until expended, shall be made available for fiscal year 2024, $150,000,000, to remain available until expended, shall be made available for fiscal year 2025: *Provided further*, That of the amount provided under this heading in this Act and in addition to amounts otherwise made available for this purpose, $2,537,000,000 shall be for the Carbon Capture Demonstration Projects Program, as authorized under section 962(b)(2)(C) of the Energy Policy Act of 2005 (42 U.S.C. 16292(b)(2)(C)): *Provided further*, That of the funds in the preceding proviso, $937,000,000, to remain available until expended, shall be made available for fiscal year 2022, $500,000,000, to remain available until expended, shall be made available for fiscal year

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2023, $500,000,000, to remain available until expended, shall be made available for fiscal year 2024, $600,000,000, to remain available until expended, shall be made available for fiscal year 2025: *Provided further*, That of the amount provided under this heading in this Act and in addition to amounts otherwise made available for this purpose, $500,000,000 shall be to carry out Industrial Emission Demonstration Projects, as authorized under section 454(d)(3) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17113(d)(3)): *Provided further*, That of the funds in the preceding proviso, $100,000,000, to remain available until expended, shall be made available for fiscal year 2022, $100,000,000, to remain available until expended, shall be made available for fiscal year 2023, $150,000,000, to remain available until expended, shall be made available for fiscal year 2024, $150,000,000, to remain available until expended, shall be made available for fiscal year 2025: *Provided further*, That of the amount provided under this heading in this Act and in addition to amounts otherwise made available for this purpose, $500,000,000 shall be to carry out the Clean Energy Demonstration Program on Current and Former Mine Land, as authorized under section 40342 of division D of this Act: *Provided further*, That of the funds in the preceding proviso, $100,000,000, to remain available until expended, shall be made available for fiscal year 2022, $100,000,000, to remain available until expended, shall be made available for fiscal year 2023, $100,000,000, to remain available until expended, shall be made available for fiscal year 2024, $100,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $100,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the amount provided under this heading in this Act, $8,000,000,000 shall be made for Regional Clean Hydrogen Hubs, as authorized under section 813 of the Energy Policy Act of 2005 (42 U.S.C. 16151 et seq.), as amended by section 40314 of division D of this Act: *Provided further*, That of the funds in the preceding proviso, $1,600,000,000, to remain available until expended, shall be made available for fiscal year 2022, $1,600,000,000, to remain available until expended, shall be made available for fiscal year 2023, $1,600,000,000, to remain available until expended, shall be made available for fiscal year 2024, $1,600,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $1,600,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the amount provided under this heading in this Act, $5,000,000,000 shall be for grants for the Program Upgrading Our Electric Grid and Ensuring Reliability and Resiliency, as authorized under section 40103(b) of division D of this Act: *Provided further*, That of the funds in the preceding proviso, $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2022, $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2023, $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2024, $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the amount provided under this heading in this Act, $1,000,000,000 shall be to carry out activities for energy improvement in rural and remote areas, as authorized under section

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40103(c) of division D of this Act: *Provided further*, That of the funds in the preceding proviso, $200,000,000, to remain available until expended, shall be made available for fiscal year 2022, $200,000,000, to remain available until expended, shall be made available for fiscal year 2023, $200,000,000, to remain available until expended, shall be made available for fiscal year 2024, $200,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $200,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That not later than 90 days after the date of enactment of this Act, the Secretary of Energy shall submit to the House and Senate Committees on Appropriations a detailed spend plan for fiscal year 2022: *Provided further*, That for each fiscal year through 2026, as part of the annual budget submission of the President under section 1105(a) of title 31, United States Code, the Secretary of Energy shall submit a detailed spend plan for that fiscal year: *Provided further*, That up to three percent of the amounts made available under this heading in this Act in each of fiscal years 2022 through 2026 shall be for program direction: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

POWER MARKETING ADMINISTRATIONS

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Construction, Rehabilitation, Operation and Maintenance, Western Area Power Administration", $500,000,000, to remain available until expended, for the purchase of power and transmission services: *Provided*, That the amount made available under this heading in this Act shall be derived from the general fund of the Treasury and shall be reimbursable from amounts collected by the Western Area Power Administration pursuant to the Flood Control Act of 1944 and the Reclamation Project Act of 1939 to recover purchase power and wheeling expenses: *Provided further*, That such amounts as the Administrator, Western Area Power Administration, deems necessary for the same purposes as outlined above may be transferred to Western Area Power Administration's Colorado River Basins Power Marketing Fund account: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

GENERAL PROVISIONS—DEPARTMENT OF ENERGY

(INCLUDING TRANSFER OF FUNDS)

SEC. 301. Notwithstanding section 3304 of title 5, United States Code, and without regard to the provisions of sections 3309 through

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3318 of such title 5, the Secretary of Energy, upon a determination that there is a severe shortage of candidates or a critical hiring need for particular positions to carry out the Department of Energy activities funded under this title, may, from within the funds provided to the Department of Energy under this title, recruit and directly appoint highly qualified individuals into the competitive service: *Provided*, That such authority shall not apply to positions in the Excepted Service or the Senior Executive Service: *Provided further*, That any action authorized herein shall be consistent with the merit principles of section 2301 of such title 5, and the Department shall comply with the public notice requirements of section 3327 of such title 5: *Provided further*, That the authority under this section shall terminate on September 30, 2027: *Provided further*, That 180 days after the date of enactment of this Act, the Secretary of Energy shall submit to the House and Senate Committees on Appropriations an estimate of the number of highly qualified individuals it expects to hire under the authority provided in this section.

SEC. 302. Up to one-tenth of one percent of each amount appropriated to the Department of Energy in this title may be transferred to "Departmental Administration" to be used for additional management and mission support for funds made available to the Department of Energy in this title in this Act.

SEC. 303. One-tenth of one percent of the amounts made available to the Department of Energy under each heading in this title in this Act in each of fiscal years 2022 through 2026 shall be transferred to the Office of the Inspector General of the Department of Energy to oversee the funds made available to the Department of Energy in this title in this Act.

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For an additional amount for "Appalachian Regional Commission", $1,000,000,000, to remain available until expended, notwithstanding 40 U.S.C. 14704: *Provided*, That of the funds in the preceding proviso, $200,000,000, to remain available until expended, shall be made available for fiscal year 2022, $200,000,000, to remain available until expended, shall be made available for fiscal year 2023, $200,000,000, to remain available until expended, shall be made available for fiscal year 2024, $200,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $200,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

DELTA REGIONAL AUTHORITY

For an additional amount for "Delta Regional Authority", $150,000,000 to remain available until expended: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for

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fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

DENALI COMMISSION

For an additional amount for "Denali Commission", $75,000,000 to remain available until expended: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

NORTHERN BORDER REGIONAL COMMISSION

For an additional amount for "Northern Border Regional Commission", $150,000,000 to remain available until expended: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

SOUTHEAST CRESCENT REGIONAL COMMISSION

For an additional amount for "Southeast Crescent Regional Commission", $5,000,000 to remain available until expended: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

SOUTHWEST BORDER REGIONAL COMMISSION

For an additional amount for "Southwest Border Regional Commission", $1,250,000 to remain available until expended: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

TITLE IV—FINANCIAL SERVICES AND GENERAL GOVERNMENT

EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

OFFICE OF THE NATIONAL CYBER DIRECTOR

SALARIES AND EXPENSES

For an additional amount for "Office of the National Cyber Director", $21,000,000, to remain available until September 30, 2022, to carry out the purposes of section 1752 of the National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283): *Provided*, That such amount is designated by the Congress

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as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

FEDERAL COMMUNICATIONS COMMISSION

AFFORDABLE CONNECTIVITY FUND

For an additional amount for the "Affordable Connectivity Fund", $14,200,000,000, to remain available until expended, for the Affordable Connectivity Program, as authorized under section 904(b)(1) of division N of the Consolidated Appropriations Act, 2021 (Public Law 116–260), as amended by section 60502 of division F of this Act: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL

ENVIRONMENTAL REVIEW IMPROVEMENT FUND

For an additional amount for the "Environmental Review Improvement Fund", $3,000,000 to remain available until September 30, 2026: *Provided*, That $650,000, to remain available until September 30, 2022, shall be made available for fiscal year 2022, $650,000, to remain available until September 30, 2023, shall be made available for fiscal year 2023, $650,000, to remain available until September 30, 2024, shall be made available for fiscal year 2024, $650,000, to remain available until September 30, 2025, shall be made available for fiscal year 2025, and $400,000, to remain available until September 30, 2026, shall be made available for fiscal year 2026: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount to be deposited in the "Federal Buildings Fund", $3,418,008,000, to remain available until expended, for construction and acquisition, and repairs and alterations of border stations and land ports of entry, of which no more than $250,000,000 shall be for Program Contingency and Operational Support for necessary expenses for projects funded under this heading, including, moving governmental agencies (including space alterations and adjustments, and telecommunications relocation expenses) in connection with the assignment,

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allocation and transfer of space, leasing of temporary space, and building operations, of which—

(1) $2,527,808,000 shall be for projects on the U.S. Customs and Border Protection five-year plan;

(2) $430,200,000 shall be for projects with completed U.S. Customs and Border Protection/General Services Administration feasibility studies as prioritized in the "American Jobs Plan Project List" submitted to the House and Senate Committees on Appropriations on May 28, 2021; and

(3) $210,000,000 shall be for land ports of entry (LPOE) infrastructure paving; acquisition of leased LPOEs; and additional Federal Motor Carrier Safety Administration requirements at the Southern Border:

Provided, That the General Services Administration shall submit a plan, by project, regarding the use of funds made available to the Administrator under this heading in this Act to the Committees on Appropriations of the House of Representatives and the Senate within 90 days of enactment of this Act: *Provided further*, That the Administrator of General Services shall notify the Committees on Appropriations of the House of Representatives and the Senate quarterly on the obligations and expenditures of the funds provided under this heading in this Act by account of the Federal Buildings Fund: *Provided further*, That funds made available under this heading in this Act for Federal Buildings Fund activities may be transferred to, and merged with, other accounts within the Federal Buildings Fund only to the extent necessary to meet program requirements for such activities: *Provided further*, That the General Services Administration will provide notice in advance to the Committees on Appropriations of the House of Representatives and the Senate of any proposed transfers: *Provided further*, That funds made available to the Administrator under this heading in this Act shall not be subject to section 3307 of title 40, United States Code: *Provided further*, That amounts made available under this heading in this Act shall be in addition to any other amounts made available for such purposes, including for construction and acquisition or repairs and alterations: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

TITLE V—DEPARTMENT OF HOMELAND SECURITY

SECURITY, ENFORCEMENT, AND INVESTIGATIONS

U.S. Customs and Border Protection

OPERATIONS AND SUPPORT

For an additional amount for "Operations and Support", $330,000,000, to remain available until September 30, 2026, for furniture, fixtures, and equipment for the land ports of entry modernized with funding provided to the General Services Administration in this Act: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section

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251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

PROCUREMENT, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for "Procurement, Construction, and Improvements", $100,000,000, to remain available until September 30, 2026, for land port of entry construction, modernization, and sustainment: *Provided*, That not later than 90 days after the date of enactment of this Act, the Department shall submit to the House and Senate Committees on Appropriations a detailed spend plan for the amount made available under this heading in this Act: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

COAST GUARD

OPERATIONS AND SUPPORT

For an additional amount for "Operations and Support", $5,000,000, to remain available until September 30, 2026, for personnel and administrative expenses: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

PROCUREMENT, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for "Procurement, Construction, and Improvements", $429,000,000, to remain available until September 30, 2026: *Provided*, That of the funds made available under this heading in this Act—

(1) $131,500,000 shall be for housing, family support, safety, and training facilities, as described in the Coast Guard Fiscal Year 2022 Unfunded Priorities List submitted to Congress on June 29, 2021;

(2) $158,000,000 shall be for shore construction addressing facility deficiencies, as described in the Coast Guard Fiscal Year 2022 Unfunded Priorities List submitted to Congress on June 29, 2021;

(3) $19,500,000 shall be for shore construction supporting operational assets and maritime commerce, as described in the Coast Guard Fiscal Year 2022 Unfunded Priorities List submitted to Congress on June 29, 2021; and

(4) $120,000,000 shall be for construction and improvement of childcare development centers:

Provided further, That not later than 90 days after the date of enactment of this Act, the Department shall submit to the Committees on Appropriations and Commerce, Science, and Transportation of the Senate and the Committees on Appropriations and Transportation and Infrastructure in the House of Representatives a detailed expenditure plan, including a list of project locations under each paragraph in the preceding proviso: *Provided further*, That such

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amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

PROTECTION, PREPAREDNESS, RESPONSE, AND RECOVERY

CYBERSECURITY AND INFRASTRUCTURE SECURITY AGENCY

OPERATIONS AND SUPPORT

For an additional amount for "Operations and Support", $35,000,000, to remain available until September 30, 2026, for risk management operations and stakeholder engagement and requirements: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

CYBERSECURITY RESPONSE AND RECOVERY FUND

For an additional amount for "Cybersecurity Response and Recovery Fund", $100,000,000, to remain available until September 30, 2028, for cyber response and recovery, as authorized by subtitle C of the Homeland Security Act of 2002, as amended by this Act: *Provided*, That $20,000,000, to remain available until September 30, 2028, shall be made available for fiscal year 2022, $20,000,000, to remain available until September 30, 2028, shall be made available for fiscal year 2023, $20,000,000, to remain available until September 30, 2028, shall be made available for fiscal year 2024, $20,000,000, to remain available until September 30, 2028, shall be made available for fiscal year 2025, and $20,000,000, to remain available until September 30, 2028, shall be made available for fiscal year 2026: *Provided further*, That amounts provided under this heading in this Act shall be available only upon a declaration of a significant incident by the Secretary of Homeland Security pursuant to section 2233 of the Homeland Security Act of 2002, as amended by this Act: *Provided further*, That the Cybersecurity and Infrastructure Security Agency shall provide to the Committees on Appropriations and Homeland Security and Governmental Affairs of the Senate and the Committees on Appropriations and Oversight and Reform of the House of Representatives monthly reports, to be submitted not later than the tenth business day following the end of each month, on the status of funds made available under this heading in this Act, including an accounting of the most recent funding allocation estimates, obligations, expenditures, and unobligated funds, delineated by significant incident, as defined in section 2232 of the Homeland Security Act of 2002, as amended by this Act: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

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FEDERAL EMERGENCY MANAGEMENT AGENCY

OPERATIONS AND SUPPORT

For an additional amount for "Operations and Support", $67,000,000, to remain available until September 30, 2026, for Federal agency dam safety activities and assistance to States under sections 7 through 12 of the National Dam Safety Program Act (33 U.S.C. 467e through 467h): *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

FEDERAL ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Federal Assistance", $2,233,000,000, which shall be allocated as follows:

(1) $500,000,000, to remain available until expended, for grants pursuant to section 205 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5135): *Provided*, That $100,000,000, to remain available until expended, shall be made available for fiscal year 2022, $100,000,000, to remain available until expended, shall be made available for fiscal year 2023, $100,000,000, to remain available until expended, shall be made available for fiscal year 2024, $100,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $100,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That in addition to amounts made available for administrative expenses under section 205(d)(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5135(d)(2)), no more than 3 percent of the amounts made available in fiscal year 2022, 3 percent of the amounts made available in fiscal year 2023, and 3 percent of the amounts made available in each of fiscal years 2024 through 2026 under this paragraph in this Act may be transferred to "Federal Emergency Management Agency—Operations and Support" for salaries and expenses.

(2) $733,000,000, to remain available until expended: *Provided*, That $148,000,000 of the amounts made available under this paragraph in this Act shall be for grants to States pursuant to section 8(e) of the National Dam Safety Program Act (33 U.S.C. 467f(e)): *Provided further*, That $585,000,000 of the amounts made available under this paragraph in this Act shall be for grants to States pursuant to section 8A of the National Dam Safety Program Act (33 U.S.C. 467f–2), of which no less than $75,000,000 shall be for the removal of dams: *Provided further*, That dam removal projects shall include written consent of the dam owner, if ownership is established: *Provided further*, That in addition to amounts made available for administrative expenses, no more than 3 percent of the amounts made available under this paragraph in this Act may be transferred to "Federal Emergency Management Agency—Operations and Support" for salaries and expenses.

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(3) $1,000,000,000 to remain available until expended, for grants to states, local, tribal, and territorial governments for improvement to cybersecurity and critical infrastructure, as authorized by section 2218 of the Homeland Security Act of 2002, as amended by this Act: *Provided*, That $200,000,000, to remain available until expended, shall be made available for fiscal year 2022, $400,000,000, to remain available until expended, shall be made available for fiscal year 2023, $300,000,000, to remain available until expended, shall be made available for fiscal year 2024, and $100,000,000, to remain available until expended, shall be made available for fiscal year 2025: *Provided further*, That no more than 3 percent of the amounts made available in each of fiscal years 2022 through 2025 under this paragraph in this Act may be transferred to "Federal Emergency Management Agency—Operations and Support" for salaries and expenses:

Provided, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

DISASTER RELIEF FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Disaster Relief Fund", $1,000,000,000, to remain available until expended, in addition to any amounts set aside pursuant to section 203(i) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133), for grants pursuant to such section: *Provided*, That $200,000,000, to remain available until expended, shall be made available for fiscal year 2022, $200,000,000, to remain available until expended, shall be made available for fiscal year 2023, $200,000,000, to remain available until expended, shall be made available for fiscal year 2024, $200,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $200,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That no more than $16,500,000 of the amounts made available in each of fiscal years 2022 through 2026 under this heading in this Act may be transferred to "Federal Emergency Management Agency—Operations and Support" for salaries and expenses: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

NATIONAL FLOOD INSURANCE FUND

For an additional amount for "National Flood Insurance Fund", $3,500,000,000, to be derived from the General Fund of the Treasury, to remain available until expended, for flood mitigation actions and for flood mitigation assistance under section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c), notwithstanding sections 1366(e), 1310(a)(7), and 1367 of such Act (42 U.S.C.4104c(e), 4017(a)(7), 4104d), in addition to any other funds

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available for this purpose: *Provided*, That $700,000,000, to remain available until expended, shall be made available for fiscal year 2022, $700,000,000, to remain available until expended, shall be made available for fiscal year 2023, $700,000,000, to remain available until expended, shall be made available for fiscal year 2024, $700,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $700,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That notwithstanding section 1366(d) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c(d)), the Administrator of the Federal Emergency Management Agency may also use amounts made available under subsection (a) to provide flood mitigation assistance under section 1366 of that Act (42 U.S.C. 4104c) for mitigation activities in an amount up to 90 percent of all eligible costs for a property—

(1) located within a census tract with a Centers for Disease Control and Prevention Social Vulnerability Index score of not less than 0.5001; or

(2) that serves as a primary residence for individuals with a household income of not more than 100 percent of the applicable area median income:

Provided further, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

SCIENCE AND TECHNOLOGY DIRECTORATE

RESEARCH AND DEVELOPMENT

For an additional amount for "Research and Development", $157,500,000, to remain available until September 30, 2026, for critical infrastructure security and resilience research, development, test, and evaluation: *Provided*, That the funds made available under this heading in this Act may be used for—

(1) special event risk assessments rating planning tools;

(2) electromagnetic pulse and geo-magnetic disturbance resilience capabilities;

(3) positioning, navigation, and timing capabilities;

(4) public safety and violence prevention to evaluate soft target security, including countering improvised explosive device events and protection of U.S. critical infrastructure; and

(5) research supporting security testing capabilities relating to telecommunications equipment, industrial control systems, and open source software:

Provided further, That not later than 90 days after the date of enactment of this Act, the Department shall submit to the House and Senate Committees on Appropriations a detailed spend plan for the amount made available under this heading in this Act: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

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GENERAL PROVISION—THIS TITLE

SEC. 501. One-quarter of one percent of the amounts made available under each heading in this title in this Act in each of fiscal years 2022 through 2026 shall be transferred to the Office of the Inspector General of the Department of the Homeland Security for oversight of funding provided to the Department of Homeland Security in this title in this Act.

TITLE VI—DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "Resource Management", $455,000,000, to remain available until expended: *Provided*, That $91,000,000, to remain available until expended, shall be made available for fiscal year 2022, $91,000,000, to remain available until expended, shall be made available for fiscal year 2023, $91,000,000, to remain available until expended, shall be made available for fiscal year 2024, $91,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $91,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the funds made available under this heading in this Act, the following amounts shall be for the following purposes in equal amounts for each of fiscal years 2022 through 2026, and shall be in addition to amounts otherwise made available for such purpose—

(1) $255,000,000 shall be for the following regional ecosystem restoration purposes—

(A) $26,000,000 shall be for Delaware River Basin Conservation Act;

(B) $162,000,000 shall be for Klamath Basin restoration activities, including habitat restoration, planning, design, engineering, environmental compliance, fee acquisition, infrastructure development, construction, operations and maintenance, improvements, and expansion, as necessary, on lands currently leased by the U.S. Fish and Wildlife Service for conservation and recovery of endangered species;

(C) $17,000,000 shall be for implementing section 5(d)(2) of the Lake Tahoe Restoration Act; and

(D) $50,000,000 shall be for sagebrush steppe ecosystem;

(2) $200,000,000 shall be for restoring fish and wildlife passage by removing in-stream barriers and providing technical assistance under the National Fish Passage Program:

Provided further, That one-half of one percent of the amounts made available under this heading in this Act in each of fiscal years 2022 through 2026 shall be transferred to the Office of Inspector General of the Department of the Interior for oversight of funding provided to the Department of the Interior in this title

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in this Act: *Provided further*, That nothing under this heading in this Act shall be construed as providing any new authority to remove, breach, or otherwise alter the operations of a Federal hydropower dam and dam removal projects shall include written consent of the dam owner, if ownership is established: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "Surveys, Investigations, and Research", $510,668,000, to remain available until expended, for the Secretary of the Interior to carry out activities authorized in sections 40201, 40204, and 41003(a) of division D of this Act: *Provided*, That amounts made available under this heading in this Act shall be allocated as follows:

(1) $320,000,000 to carry out section 40201 of division D of this Act: *Provided*, That $64,000,000, to remain available until September 30, 2024, shall be made available for fiscal year 2022, $64,000,000, to remain available until September 30, 2025, shall be made available for fiscal year 2023, $64,000,000, to remain available until September 30, 2026, shall be made available for fiscal year 2024, $64,000,000, to remain available until September 30, 2027, shall be made available for fiscal year 2025, and $64,000,000, to remain available until September 30, 2028, shall be made available for fiscal year 2026;

(2) $167,000,000, to remain available until expended, for fiscal year 2022 to carry out section 40204 of division D of this Act;

(3) $23,668,000 to carry out section 41003(a) of division D of this Act: *Provided*, That $8,668,000, to remain available until September 30, 2024, shall be made available for fiscal year 2022, $5,000,000, to remain available until September 30, 2025, shall be made available for fiscal year 2023, $5,000,000, to remain available until September 30, 2026, shall be made available for fiscal year 2024, and $5,000,000, to remain available until September 30, 2027, shall be made available for fiscal year 2025:

Provided further, That amounts provided under this heading in this Act shall be in addition to amounts otherwise available for such purposes: *Provided further*, That one-half of one percent of the amounts made available under this heading in this Act in each of fiscal years 2022 through 2026 shall be transferred to the Office of Inspector General of the Department of the Interior for oversight of funding provided to the Department of the Interior in this title in this Act: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and

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to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

ABANDONED MINE RECLAMATION FUND

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount to be deposited in the "Abandoned Mine Reclamation Fund", $11,293,000,000, to remain available until expended, to carry out section 40701 of division D of this Act: *Provided*, That of the amount provided under this heading in this Act, $25,000,000, to remain available until expended, shall be to carry out activities as authorized in section 40701(g) of division D of this Act: *Provided further*, That up to 3 percent of the amounts made available under this heading in this Act shall be for salaries, expenses, and administration: *Provided further*, That one-half of one percent of the amounts made available under this heading in this Act shall be transferred to the Office of Inspector General of the Department of the Interior for oversight of funding provided to the Department of the Interior in this title in this Act: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

INDIAN AFFAIRS

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "Operation of Indian Programs", $216,000,000, to remain available until expended for tribal climate resilience, adaptation, and community relocation planning, design, and implementation of projects which address the varying climate challenges facing tribal communities across the country: *Provided*, That of the funds in the preceding proviso, $43,200,000, to remain available until expended, shall be made available for fiscal year 2022, $43,200,000, to remain available until expended, shall be made available for fiscal year 2023, $43,200,000, to remain available until expended shall be made available for fiscal year 2024, $43,200,000, to remain available until expended, shall be made available for fiscal year 2025, and $43,200,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the funds made available under the preceding proviso for fiscal years 2022 through 2026, $130,000,000 shall be for community relocation, and $86,000,000 shall be for tribal climate resilience and adaptation projects: *Provided further*, That up to 3 percent of the amounts made available under this heading in this Act in each of fiscal years 2022 through 2026 shall be for salaries, expenses, and administration: *Provided further*, That one-half of one percent of the amounts made available under this heading in this Act in each of fiscal years 2022 through 2026

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shall be transferred to the Office of Inspector General of the Department of the Interior for oversight of funding provided to the Department of the Interior in this title in this Act: *Provided further*, That awards made under subsection (d) to Tribes and Tribal organizations under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.) shall be considered nonrecurring and shall not be part of the amount required by section 106 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5325), and such funds shall only be used for the purposes identified in this section: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

CONSTRUCTION

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "Construction", $250,000,000, to remain available until expended, for construction, repair, improvement, and maintenance of irrigation and power systems, safety of dams, water sanitation, and other facilities: *Provided*, That any funds provided for the Safety of Dams program pursuant to the Act of November 2, 1921 (25 U.S.C. 13), shall be made available on a nonreimbursable basis: *Provided further*, That $50,000,000, to remain available until expended, shall be made available for fiscal year 2022, $50,000,000, to remain available until expended, shall be made available for fiscal year 2023, $50,000,000, to remain available until expended, shall be made available for fiscal year 2024, $50,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $50,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the funds made available under this heading in this Act for fiscal years 2022 through 2026—

(1) Not less than $50,000,000 shall be for addressing irrigation and power systems; and

(2) $200,000,000 shall be for safety of dams, water sanitation, and other facilities:

Provided further, That up to 3 percent of the amounts made available under this heading in this Act in each of fiscal years 2022 through 2026 shall be for salaries, expenses, and administration: *Provided further*, That one-half of one percent of the amounts made available under this heading in this Act in each of fiscal years 2022 through 2026 shall be transferred to the Office of Inspector General of the Department of the Interior for oversight of funding provided to the Department of the Interior in this title in this Act: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

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DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

DEPARTMENTAL OPERATIONS

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "Departmental Operations", $905,000,000, to remain available until expended, for the Secretary of the Interior to carry out activities, as authorized in section 40804 of division D of this Act: *Provided*, That $337,000,000, to remain available until expended, shall be made available for fiscal year 2022, $142,000,000, to remain available until expended, shall be made available for fiscal year 2023, $142,000,000, to remain available until expended, shall be made available for fiscal year 2024, $142,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $142,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That the Secretary may transfer the funds provided under this heading in this Act to any other account in the Department of the Interior to carry out such purposes: *Provided further*, That the Secretary of the Interior and the Secretary of Agriculture, acting through the Chief of the Forest Service, may authorize the transfer of funds provided under this heading in this Act between the Departments for the purpose of carrying out activities as authorized in section 40804(b)(1) of division D of this Act: *Provided further*, That up to 3 percent of the amounts made available under this heading in this Act in each of fiscal years 2022 through 2026 shall be for salaries, expenses, and administration: *Provided further*, That one-half of one percent of the amounts made available under this heading in this Act in each of fiscal years 2022 through 2026 shall be transferred to the Office of Inspector General of the Department of the Interior for oversight of funding provided to the Department of the Interior in this title in this Act: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

DEPARTMENT-WIDE PROGRAMS

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "Wildland Fire Management", $1,458,000,000, to remain available until expended: *Provided*, That $407,600,000, to remain available until expended, shall be made available for fiscal year 2022, $262,600,000, to remain available until expended, shall be made available for fiscal year 2023, $262,600,000, to remain available until expended, shall be made available for fiscal year 2024, $262,600,000, to remain available until expended, shall be made available for fiscal year 2025, and $262,600,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the funds

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made available under this heading in this Act, the following amounts shall be for the following purposes for the following fiscal years—

(1) $1,055,000,000 for the Secretary of the Interior to carry out activities for the Department of the Interior, as authorized in section 40803 of division D of this Act, including fuels management activities, of which $327,000,000, to remain available until expended, shall be made available for fiscal year 2022 and $182,000,000, to remain available until expended, shall be made available for each of fiscal years 2023 through 2026;

(2) In addition to amounts made available in paragraph (1) for fuels management activities, $35,600,000 for each of fiscal years 2022 through 2026 for such purpose; and

(3) In addition to amounts made available in paragraph (1) for burned area rehabilitation, $45,000,000 for each of fiscal years 2022 through 2026 for such purpose:

Provided further, That up to $2,000,000 for each of fiscal years 2022 through 2026 from funds made available in paragraphs (2) and (3) of the preceding proviso shall be for implementation of the Tribal Forestry Protection Act, as amended (Public Law 108–278): *Provided further*, That the Secretary may transfer the funds provided under this heading in this Act to any other account in the Department of the Interior to carry out such purposes: *Provided further*, That funds appropriated under this heading in this Act may be transferred to the United States Fish and Wildlife Service and the National Marine Fisheries Service for the costs of carrying out their responsibilities under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) to consult and conference, as required by section 7 of such Act, in connection with wildland fire management activities: *Provided further*, That up to 3 percent of the amounts made available under this heading in this Act in each of fiscal years 2022 through 2026 shall be for salaries, expenses, and administration: *Provided further*, That one-half of one percent of the amounts made available under this heading in this Act in each of fiscal years 2022 through 2026 shall be transferred to the Office of Inspector General of the Department of the Interior for oversight of funding provided to the Department of the Interior in this title in this Act: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

ENERGY COMMUNITY REVITALIZATION PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for Department-Wide Programs, $4,677,000,000, to remain available until expended, for an Energy Community Revitalization program to carry out orphaned well site plugging, remediation, and restoration activities authorized in section 349 of the Energy Policy Act of 2005 (42 U.S.C. 15907), as amended by section 40601 of division D of this Act: *Provided*, That of the funds made available under this heading in this Act, the following amounts shall be for the following purposes—

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(1) $250,000,000, to remain available until September 30, 2030, shall be to carry out activities authorized in section 349(b) of the Energy Policy Act of 2005 (42 U.S.C. 15907(b)), as amended by section 40601 of division D of this Act;

(2) $775,000,000, to remain available until September 30, 2030, shall be to carry out activities authorized in section 349(c)(3) of the Energy Policy Act of 2005 (42 U.S.C. 15907(c)(3)), as amended by section 40601 of division D of this Act;

(3) $2,000,000,000, to remain available until September 30, 2030, shall be to carry out activities authorized in section 349(c)(4) of the Energy Policy Act of 2005 (42 U.S.C. 15907(c)(4)), as amended by section 40601 of division D of this Act;

(4) $1,500,000,000, to remain available until September 30, 2030, shall be to carry out activities authorized in section 349(c)(5) of the Energy Policy Act of 2005 (42 U.S.C. 15907(c)(5)), as amended by section 40601 of division D of this Act;

(5) $150,000,000, to remain available until September 30, 2030, shall be to carry out activities authorized in section 349(d) of the Energy Policy Act of 2005 (42 U.S.C.15907(d)), as amended by section 40601 of division D of this Act;

Provided further, That of the amount provided under this heading in this Act, $2,000,000 shall be provided by the Secretary through a cooperative agreement with the Interstate Oil and Gas Compact Commission to carry out the consultations authorized in section 349 of the Energy Policy Act of 2005 (42 U.S.C. 15907), as amended by section 40601 of division D of this Act: *Provided further*, That amounts provided under this heading in this Act shall be in addition to amounts otherwise available for such purposes: *Provided further*, That amounts provided under this heading in this Act are not available to fulfill Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) obligations agreed to in settlement or imposed by a court, whether for payment of funds or for work to be performed: *Provided further*, That the Secretary may transfer the funds provided under this heading in this Act to any other account in the Department of the Interior to carry out such purposes: *Provided further*, That the Secretary may transfer funds made available in paragraph (1) of the first proviso under this heading to the Secretary of Agriculture, acting through the Chief of the Forest Service, to carry out such purposes: *Provided further*, That up to 3 percent of the amounts made available under this heading in this Act shall be for salaries, expenses, and administration: *Provided further*, That one-half of one percent of the amounts made available under this heading in this Act shall be transferred to the Office of Inspector General of the Department of the Interior for oversight of funding provided to the Department of the Interior in this title in this Act: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

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GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 601. Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior shall submit to the House and Senate Committees on Appropriations a detailed spend plan for the funds provided to the Department of the Interior in this title in this Act for fiscal year 2022, and for each fiscal year through 2026, as part of the annual budget submission of the President under section 1105(a) of title 31, United States Code, the Secretary of the Interior shall submit a detailed spend plan for the funds provided to the Department of the Interior in this title in this Act for that fiscal year.

ENVIRONMENTAL PROTECTION AGENCY

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "Environmental Programs and Management", $1,959,000,000, which shall be allocated as follows:

(1) $1,717,000,000, to remain available until expended, for Geographic Programs as specified in the explanatory statement described in section 4 of the matter preceding division A of Public Law 116–260: *Provided*, That $343,400,000, to remain available until expended, shall be made available for fiscal year 2022, $343,400,000, to remain available until expended, shall be made available for fiscal year 2023, $343,400,000, to remain available until expended, shall be made available for fiscal year 2024, $343,400,000, to remain available until expended, shall be made available for fiscal year 2025, and $343,400,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the funds made available in this paragraph in this Act, the following amounts shall be for the following purposes in equal amounts for each of fiscal years 2022 through 2026—

(A) $1,000,000,000 shall be for Great Lakes Restoration Initiative;

(B) $238,000,000 shall be for Chesapeake Bay;

(C) $24,000,000 shall be for San Francisco Bay;

(D) $89,000,000 shall be for Puget Sound;

(E) $106,000,000 shall be for Long Island Sound;

(F) $53,000,000 shall be for Gulf of Mexico;

(G) $16,000,000 shall be for South Florida;

(H) $40,000,000 shall be for Lake Champlain;

(I) $53,000,000 shall be for Lake Pontchartrain;

(J) $15,000,000 shall be for Southern New England Estuaries;

(K) $79,000,000 shall be for Columbia River Basin; and

(L) $4,000,000 shall be for other geographic activities which includes Pacific Northwest:

Provided further, That the Administrator may waive or reduce the required non-Federal share for amounts made available under this paragraph in this Act for the purposes described in the preceding proviso;

(2) $132,000,000, to remain available until expended, for the National Estuary Program grants under section 320(g)(2)

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of the Federal Water Pollution Control Act, notwithstanding the funding limitation in section 320(i)(2)(B) of the Act: *Provided*, That $26,400,000, to remain available until expended, shall be made available for fiscal year 2022, $26,400,000, to remain available until expended, shall be made available for fiscal year 2023, $26,400,000, to remain available until expended, shall be made available for fiscal year 2024, $26,400,000, to remain available until expended, shall be made available for fiscal year 2025, and $26,400,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That the Administrator may waive or reduce the required non-Federal share for amounts made available under this paragraph in this Act: *Provided further*, That up to three percent of the amounts made available under this paragraph in this Act shall be for salaries, expenses, and administration;

(3) $60,000,000, to remain available until expended, for actions under the Gulf Hypoxia Action Plan: *Provided*, That $12,000,000, to remain available until expended, shall be made available for fiscal year 2022, $12,000,000, to remain available until expended, shall be made available for fiscal year 2023, $12,000,000, to remain available until expended, shall be made available for fiscal year 2024, $12,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $12,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That funds shall be provided annually to the twelve states serving as members of the Mississippi River/Gulf of Mexico Watershed Nutrient Task Force (Arkansas, Iowa, Illinois, Indiana, Kentucky, Louisiana, Minnesota, Missouri, Mississippi, Ohio, Tennessee, and Wisconsin) in equal amounts for each state for the period of fiscal year 2022 to fiscal year 2026: *Provided further*, That up to three percent of the amounts made available under this paragraph in this Act shall be for salaries, expenses, and administration;

(4) $25,000,000, to remain available until expended, to support permitting of Class VI wells as authorized under section 40306 of division D of this Act, to be carried out by Drinking Water Programs: *Provided*, That $5,000,000, to remain available until expended, shall be made available for fiscal year 2022, $5,000,000, to remain available until expended, shall be made available for fiscal year 2023, $5,000,000, to remain available until expended, shall be made available for fiscal year 2024, $5,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $5,000,000, to remain available until expended, shall be made available for fiscal year 2026;

(5) $10,000,000, to remain available until September 30, 2026, for developing battery recycling best practices, as authorized under section 70401(b) of division G of this Act, to be carried out by the Resource Conservation and Recovery Act program;

(6) $15,000,000, to remain available until September 30, 2026, for developing voluntary battery labeling guidelines, as authorized under section 70401(c) of division G of this Act, to be carried out by the Resource Conservation and Recovery Act program;

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Provided, That funds provided for the purposes described in paragraphs (1), (2), and (3) under this heading in this Act may be transferred to the United States Fish and Wildlife Service and the National Marine Fisheries Service for the costs of carrying out their responsibilities under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) to consult and conference, as required by section 7 of such Act, in connection with Geographic programs, the National Estuary Program, and the Gulf Hypoxia Action Plan: *Provided further*, That amounts provided under this heading in this Act shall be in addition to amounts otherwise available for such purposes: *Provided further*, That one-half of one percent of the amounts made available under this heading in this Act in each of fiscal years 2022 through 2026 shall be transferred to the Office of Inspector General of the Environmental Protection Agency for oversight of funding provided to the Environmental Protection Agency in this title in this Act: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

HAZARDOUS SUBSTANCE SUPERFUND

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "Hazardous Substance Superfund", $3,500,000,000, to remain available until expended, consisting of such sums as are available in the Trust Fund on September 30, 2021, as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) and up to $3,500,000,000 as a payment from general revenues to the Hazardous Substance Superfund for purposes as authorized by section 517(b) of SARA, for all costs associated with Superfund: Remedial activities: *Provided*, That in providing technical and project implementation assistance for amounts made available under this heading in this Act, the Administrator shall consider the unique needs of Tribal communities with contaminated sites where the potentially responsible parties cannot pay or cannot be identified, but shall not alter the process for prioritizing site cleanups: *Provided further*, That amounts provided under this heading in this Act shall be in addition to amounts otherwise available for such purposes: *Provided further*, That amounts provided under this heading in this Act shall not be subject to cost share requirements under section 104(c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 U.S.C. 9604(c)(3)): *Provided further*, That the Administrator of the Environmental Protection Agency shall annually report to Congress on the status of funded projects: *Provided further*, That one-half of one percent of the amounts made available under this heading in this Act in each of fiscal years 2022 through 2026 shall be transferred to the Office of Inspector General of the Environmental Protection Agency for oversight of funding provided to the Environmental Protection Agency in this title in this Act: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget

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for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

STATE AND TRIBAL ASSISTANCE GRANTS

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "State and Tribal Assistance Grants", $55,426,000,000, to remain available until expended: *Provided*, That amounts made available under this heading in this Act shall be allocated as follows:

(1) $11,713,000,000 for capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act: *Provided*, That $1,902,000,000, to remain available until expended, shall be made available for fiscal year 2022, $2,202,000,000, to remain available until expended, shall be made available for fiscal year 2023, $2,403,000,000, to remain available until expended, shall be made available for fiscal year 2024, $2,603,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $2,603,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That for the funds provided under this paragraph in this Act in fiscal year 2022 and fiscal year 2023, the State shall deposit in the State loan fund from State moneys an amount equal to at least 10 percent of the total amount of the grant to be made to the State, notwithstanding sections 602(b)(2), 602(b)(3) or 202 of the Federal Water Pollution Control Act: *Provided further*, That for the funds made available under this paragraph in this Act, forty-nine percent of the funds made available to each State for Clean Water State Revolving Fund capitalization grants shall be used by the State to provide subsidy to eligible recipients in the form of assistance agreements with 100 percent forgiveness of principal or grants (or any combination of these), notwithstanding section 603(i)(3)(B) of the Federal Water Pollution Control Act (33 U.S.C. 1383): *Provided further*, That up to three percent of the amounts made available under this paragraph in this Act in fiscal year 2022 and up to two percent in each of fiscal years 2023 through 2026 shall be for salaries, expenses, and administration: *Provided further*, That not less than 80 percent of the amounts the Administrator uses in each fiscal year for salaries, expenses, and administration from amounts made available under this paragraph in this Act for such purposes shall be used for purposes other than hiring full-time employees: *Provided further*, That 0.35 percent of the amounts made available under this paragraph in this Act in each of fiscal years 2022 through 2026 shall be transferred to the Office of Inspector General of the Environmental Protection Agency for oversight of funding provided to the Environmental Protection Agency in this title in this Act;

(2) $11,713,000,000 for capitalization grants for the Drinking Water State Revolving Funds under section 1452 of the Safe Drinking Water Act: *Provided*, That $1,902,000,000, to remain available until expended, shall be made available for fiscal year 2022, $2,202,000,000, to remain available until expended, shall be made available for fiscal year 2023,

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$2,403,000,000, to remain available until expended, shall be made available for fiscal year 2024, $2,603,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $2,603,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That for the funds provided under this paragraph in this Act in fiscal year 2022 and fiscal year 2023, the State shall deposit in the State loan fund from State moneys an amount equal to at least 10 percent of the total amount of the grant to be made to the State, notwithstanding section 1452(e) of the Safe Drinking Water Act: *Provided further*, That for the funds made available under this paragraph in this Act, forty-nine percent of the funds made available to each State for Drinking Water State Revolving Fund capitalization grants shall be used by the State to provide subsidy to eligible recipients in the form of assistance agreements with 100 percent forgiveness of principal or grants (or any combination of these), notwithstanding section 1452(d)(2) of the Safe Drinking Water Act (42 U.S.C. 300j–12): *Provided further*, That up to three percent of the amounts made available under this paragraph in this Act in fiscal year 2022 and up to two percent in each of fiscal years 2023 through 2026 shall be for salaries, expenses, and administration: *Provided further*, That not less than 80 percent of the amounts the Administrator uses in each fiscal year for salaries, expenses, and administration from amounts made available under this paragraph in this Act for such purposes shall be used for purposes other than hiring full-time employees: *Provided further*, That 0.35 percent of the amounts made available under this paragraph in this Act in each of fiscal years 2022 through 2026 shall be transferred to the Office of Inspector General of the Environmental Protection Agency for oversight of funding provided to the Environmental Protection Agency in this title in this Act;

(3) $15,000,000,000 for capitalization grants for the Drinking Water State Revolving Funds under section 1452 of the Safe Drinking Water Act: *Provided*, That $3,000,000,000, to remain available until expended, shall be made available for fiscal year 2022, $3,000,000,000, to remain available until expended, shall be made available for fiscal year 2023, $3,000,000,000, to remain available until expended, shall be made available for fiscal year 2024, $3,000,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $3,000,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That the funds provided under this paragraph in this Act shall be for lead service line replacement projects and associated activities directly connected to the identification, planning, design, and replacement of lead service lines: *Provided further*, That for the funds made available under this paragraph in this Act, forty-nine percent of the funds made available to each State for Drinking Water State Revolving Fund capitalization grants shall be used by the State to provide subsidy to eligible recipients in the form of assistance agreements with 100 percent forgiveness of principal or grants (or any combination of these), notwithstanding section 1452(d)(2) of the Safe Drinking Water Act (42 U.S.C. 300j–12): *Provided further*, That the funds provided under this paragraph in this

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Act shall not be subject to the matching or cost share requirements of section 1452(e) of the Safe Drinking Water Act: *Provided further*, That up to three percent of the amounts made available under this paragraph in this Act in fiscal year 2022 and up to two percent in each of fiscal years 2023 through 2026 shall be for salaries, expenses, and administration: *Provided further*, That one-half of one percent of the amounts made available under this paragraph in this Act in each of fiscal years 2022 through 2026 shall be transferred to the Office of Inspector General of the Environmental Protection Agency for oversight of funding provided to the Environmental Protection Agency in this title in this Act;

(4) $1,000,000,000 for capitalization grants for the Clean Water State Revolving Funds under title VI of the Federal Water Pollution Control Act: *Provided*, That $100,000,000, to remain available until expended, shall be made available for fiscal year 2022, $225,000,000, to remain available until expended, shall be made available for fiscal year 2023, $225,000,000, to remain available until expended, shall be made available for fiscal year 2024, $225,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $225,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That funds provided under this paragraph in this Act shall be for eligible uses under section 603(c) of the Federal Water Pollution Control Act that address emerging contaminants: *Provided further*, That funds provided under this paragraph in this Act shall not be subject to the matching or cost share requirements of sections 602(b)(2), 602(b)(3), or 202 of the Federal Water Pollution Control Act: *Provided further*, That funds provided under this paragraph in this Act deposited into the state revolving fund shall be provided to eligible recipients as assistance agreements with 100 percent principal forgiveness or as grants (or a combination of these): *Provided further*, That up to three percent of the amounts made available under this paragraph in this Act in fiscal year 2022 and up to two percent in each of fiscal years 2023 through 2026 shall be for salaries, expenses, and administration: *Provided further*, That one-half of one percent of the amounts made available under this paragraph in this Act in each of fiscal years 2022 through 2026 shall be transferred to the Office of Inspector General of the Environmental Protection Agency for oversight of funding provided to the Environmental Protection Agency in this title in this Act;

(5) $4,000,000,000 for capitalization grants for the Drinking Water State Revolving Funds under section 1452 of the Safe Drinking Water Act: *Provided*, That $800,000,000, to remain available until expended, shall be made available for fiscal year 2022, $800,000,000, to remain available until expended, shall be made available for fiscal year 2023, $800,000,000, to remain available until expended, shall be made available for fiscal year 2024, $800,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $800,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That funds provided under this paragraph in this Act shall be to address emerging contaminants in drinking water with a focus on

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perfluoroalkyl and polyfluoroalkyl substances through capitalization grants under section 1452(t) of the Safe Drinking Water Act for the purposes described in section 1452(a)(2)(G) of such Act: *Provided further*, That funds provided under this paragraph in this Act deposited into the State revolving fund shall be provided to eligible recipients as loans with 100 percent principal forgiveness or as grants (or a combination of these): *Provided further*, That funds provided under this paragraph in this Act shall not be subject to the matching or cost share requirements of section 1452(e) of the Safe Drinking Water Act: *Provided further*, That up to three percent of the amounts made available under this paragraph in this Act in fiscal year 2022 and up to two percent in each of fiscal years 2023 through 2026 shall be for salaries, expenses, and administration: *Provided further*, That one-half of one percent of the amounts made available under this paragraph in this Act in each of fiscal years 2022 through 2026 shall be transferred to the Office of Inspector General of the Environmental Protection Agency for oversight of funding provided to the Environmental Protection Agency in this title in this Act;

(6) $5,000,000,000 for grants for addressing emerging contaminants under subsections (a) through (j) of section 1459A of the Safe Drinking Water Act (42 U.S.C. 300j–19a): *Provided*, That $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2022, $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2023, $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2024, $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That funds provided to States under this paragraph may be used for projects that address emerging contaminants supporting a community described in section 1459A, subsection (c)(2), of the Safe Drinking Water Act, notwithstanding the definition of underserved communities in section 1459A, subsection (a)(2), of the Safe Drinking Water Act: *Provided further*, That funds provided under this paragraph in this Act shall not be subject to the matching or cost share requirements of section 1459A of the Safe Drinking Water Act: *Provided further*, That up to three percent of the amounts made available under this paragraph in this Act in each of fiscal years 2022 through 2026 shall be for salaries, expenses, and administration: *Provided further*, That one-half of one percent of the amounts made available under this paragraph in this Act in each of fiscal years 2022 through 2026 shall be transferred to the Office of Inspector General of the Environmental Protection Agency for oversight of funding provided to the Environmental Protection Agency in this title in this Act;

(7) $50,000,000, to remain available until expended, to award Underground Injection Control grants, as authorized under section 40306 of division D of this Act, and for activities to support states' efforts to develop programs leading to primacy: *Provided*, That up to three percent of the amounts made available under this paragraph in this Act shall be for salaries, expenses, and administration: *Provided further*, That one-half

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of one percent of the amounts made available under this paragraph in this Act shall be transferred to the Office of Inspector General of the Environmental Protection Agency for oversight of funding provided to the Environmental Protection Agency in this title in this Act;

(8) $1,500,000,000 for brownfields activities: *Provided*, That $300,000,000, to remain available until expended, shall be made available for fiscal year 2022, $300,000,000, to remain available until expended, shall be made available for fiscal year 2023, $300,000,000, to remain available until expended, shall be made available for fiscal year 2024, $300,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $300,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the amounts made available in this paragraph in this Act, the following amounts shall be for the following purposes, in equal amounts for each of fiscal years 2022 through 2026—

(A) $1,200,000,000 shall be to carry out Brownfields projects authorized by section 104(k) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), including grants, interagency agreements and associated program support costs, of which up to $600,000,000, notwithstanding funding limitations in such sections of such Act, may be for—

(i) grants under section 104(k)(3)(A)(ii) of CERCLA to remediate brownfields sites in amounts not to exceed $5,000,000 per grant;

(ii) multipurpose grants under section 104(k)(4)(B)(i) of CERCLA in amounts not to exceed $10,000,000 per grant;

(iii) grants under sections 104(k)(2)(B) and 104(k)(5)(A)(i) of CERCLA for site characterization and assessment activities on a community-wide or site-by-site basis in amounts not to exceed $10,000,000 per grant and without further limitation on the amount that may be expended for any individual brownfield site;

(iv) grants under sections 104(k)(3)(A)(i) and 104(k)(5)(A)(ii) of CERCLA for capitalization of revolving loan funds in amounts not to exceed $10,000,000 per grant; and

(v) grants under section 104(k)(7) of CERCLA for job training in amounts not to exceed $1,000,000 per grant; and

(B) $300,000,000 shall be to carry out section 128 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980:

Provided further, That funds provided under this paragraph in this Act shall not be subject to cost share requirements under section 104(k)(10)(B)(iii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980: *Provided further*, That the Administrator of the Environmental Protection Agency shall annually report to Congress on the status of funded projects: *Provided further*, That up to three percent of the amounts made available under this paragraph in this Act in each of fiscal years 2022 through 2026 shall be for salaries, expenses, and administration: *Provided further*,

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That one-half of one percent of the amounts made available under this paragraph in this Act in each of fiscal years 2022 through 2026 shall be transferred to the Office of Inspector General of the Environmental Protection Agency for oversight of funding provided to the Environmental Protection Agency in this title in this Act;

(9) $100,000,000 for all costs for carrying out section 6605 of the Pollution Prevention Act: *Provided*, That $20,000,000, to remain available until expended, shall be made available for fiscal year 2022, $20,000,000, to remain available until expended, shall be made available for fiscal year 2023, $20,000,000, to remain available until expended, shall be made available for fiscal year 2024, $20,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $20,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That funds provided under this paragraph in this Act shall not be subject to cost share requirements under section 6605(c) of the Pollution Prevention Act: *Provided further*, That one-half of one percent of the amounts made available under this paragraph in this Act in each of fiscal years 2022 through 2026 shall be transferred to the Office of Inspector General of the Environmental Protection Agency for oversight of funding provided to the Environmental Protection Agency in this title in this Act;

(10) $275,000,000 for grants under section 302(a) of the Save Our Seas 2.0 Act (Public Law 116–224): *Provided*, That $55,000,000, to remain available until expended, shall be made available for fiscal year 2022, $55,000,000, to remain available until expended, shall be made available for fiscal year 2023, $55,000,000, to remain available until expended, shall be made available for fiscal year 2024, $55,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $55,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That notwithstanding section 302(a) of such Act, the Administrator may also provide grants pursuant to such authority to tribes, intertribal consortia consistent with the requirements in 40 CFR 35.504(a), former Indian reservations in Oklahoma (as determined by the Secretary of the Interior), and Alaskan Native Villages as defined in Public Law 92–203: *Provided further*, That up to three percent of the amounts made available under this paragraph in this Act in each of fiscal years 2022 through 2026 shall be for salaries, expenses, and administration: *Provided further*, That one-half of one percent of the amounts made available under this paragraph in this Act in each of fiscal years 2022 through 2026 shall be transferred to the Office of Inspector General of the Environmental Protection Agency for oversight of funding provided to the Environmental Protection Agency in this title in this Act;

(11) $75,000,000 to award grants focused on improving material recycling, recovery, management, and reduction, as authorized under section 70402 of division G of this Act: *Provided*, That $15,000,000, to remain available until expended, shall be made available for fiscal year 2022, $15,000,000, to remain available until expended, shall be made available for fiscal year 2023, $15,000,000, to remain available until

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expended, shall be made available for fiscal year 2024, $15,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $15,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That up to three percent of the amounts made available under this paragraph in this Act in each of fiscal years 2022 through 2026 shall be for salaries, expenses, and administration: *Provided further*, That one-half of one percent of the amounts made available under this paragraph in this Act in each of fiscal years 2022 through 2026 shall be transferred to the Office of Inspector General of the Environmental Protection Agency for oversight of funding provided to the Environmental Protection Agency in this title in this Act;

(12) $5,000,000,000 for the Clean School Bus Program as authorized under section 741 of the Energy Policy Act of 2005 (42 U.S.C. 16091), as amended by section 71101 of division G of this Act: *Provided*, That $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2022, $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2023, $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2024, $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the funds provided, $500,000,000 shall be provided annually for zero-emission school buses, as defined in section 741(a)(8) of the Energy Policy Act of 2005 (42 U.S.C. 16091(a)(8)), as amended by section 71101 of division G of this Act, and $500,000,000 shall be provided annually for clean school buses and zero-emission school buses, as defined in section 741(a)(3) of the Energy Policy Act of 2005 (42 U.S.C. 16091(a)(3)), as amended by section 71101 of division G of this Act: *Provided further*, That up to three percent of the amounts made available under this paragraph in this Act in each of fiscal years 2022 through 2026 shall be for salaries, expenses, and administration: *Provided further*, That up to one-half of one percent of the of the amounts made available under this heading in this Act in each of fiscal years 2022 through 2026 shall be transferred to the Office of Inspector General of the Environmental Protection Agency for oversight of funding provided to the Environmental Protection Agency in this title in this Act: *Provided further*, That if there are unobligated funds in any of fiscal years 2022 through 2026 after the Administrator of the Environmental Protection Agency issues awards for that fiscal year, States may compete for those funds, notwithstanding the 10 percent limitation under section 741(b)(7)(B) of the Energy Policy Act of 2005 (42 U.S.C. 16091(b)(7)(B)), as amended by section 71101 of division G of this Act:

Provided further, That amounts provided under this heading in this Act shall be in addition to amounts otherwise available for such purposes: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section

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251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

GENERAL PROVISIONS—ENVIRONMENTAL PROTECTION AGENCY

(INCLUDING TRANSFERS OF FUNDS)

SEC. 611. Funds made available to the Environmental Protection Agency by this Act for salaries, expenses, and administration purposes may be transferred to the "Environmental Programs and Management" account or the "Science and Technology" account as needed for such purposes.

SEC. 612. Not later than 90 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall submit to the House and Senate Committees on Appropriations a detailed spend plan for the funds provided to the Environmental Protection Agency in this title for fiscal year 2022, and for each fiscal year through 2026, as part of the annual budget submission of the President under section 1105(a) of title 31, United States Code, the Administrator of the Environmental Protection Agency shall submit a detailed spend plan for the funds provided to the Environmental Protection Agency in this title for that fiscal year.

SEC. 613. For this fiscal year and each fiscal year thereafter, such sums as are available in the Hazardous Substance Superfund established under section 9507 of the Internal Revenue Code of 1986 at the end of the preceding fiscal year from taxes received in the Treasury under subsection (b)(1) of such section shall be available, without further appropriation, to be used to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

SEC. 614. (a) DRINKING WATER.—There is authorized to be appropriated to carry out the purposes of section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12), in addition to amounts otherwise authorized to be appropriated for those purposes, an additional $1,126,000,000 for each of fiscal years 2022 through 2026.

(b) CLEAN WATER.—There is authorized to be appropriated to carry out the purposes of title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 et seq.), in addition to amounts otherwise authorized to be appropriated for those purposes, an additional $1,639,000,000 for each of fiscal years 2022 through 2026.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST AND RANGELAND RESEARCH

For an additional amount for "Forest and Rangeland Research", $10,000,000, to remain available until September 30, 2029, for the Secretary of Agriculture, acting through the Chief of the Forest Service, to carry out activities of the Joint Fire Science Program, as authorized in section 40803 of division D of this Act: *Provided*, That $2,000,000, to remain available until September 30, 2025, shall be made available for fiscal year 2022, $2,000,000, to remain available until September 30, 2026, shall be made available for fiscal year 2023, $2,000,000, to remain available until September

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30, 2027, shall be made available for fiscal year 2024, $2,000,000, to remain available until September 30, 2028, shall be made available for fiscal year 2025, and $2,000,000, to remain available until September 30, 2029, shall be made available for fiscal year 2026: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

STATE AND PRIVATE FORESTRY

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "State and Private Forestry", $1,526,800,000, to remain available until September 30, 2029: *Provided*, That $305,360,000, to remain available until September 30, 2025, shall be made available for fiscal year 2022, $305,360,000, to remain available until September 30, 2026, shall be made available for fiscal year 2023, $305,360,000, to remain available until September 30, 2027, shall be made available for fiscal year 2024, $305,360,000, to remain available until September 30, 2028, shall be made available for fiscal year 2025, and $305,360,000, to remain available until September 30, 2029, shall be made available for fiscal year 2026: *Provided further*, That of the funds made available under this heading in this Act, the following amounts shall be for the following purposes in equal amounts for each of fiscal years 2022 through 2026—

(1) $718,000,000 for the Secretary of Agriculture, acting through the Chief of the Forest Service, to carry out activities for the Department of Agriculture, as authorized in sections 40803 and 40804 of division D of this Act;

(2) In addition to amounts made available in paragraph (1) for grants to at-risk communities for wildfire mitigation activities, not less than $500,000,000 for such purposes;

(3) Not less than $88,000,000 for State Fire Assistance; and

(4) Not less than $20,000,000 for Volunteer Fire Assistance: *Provided further*, That amounts made available under this heading in this Act for each of fiscal years 2022 through 2026 may be transferred between accounts affected by the Forest Service budget restructure outlined in section 435 of division D of the Further Consolidated Appropriations Act, 2020 (Public Law 116–94) to carry out the activities in support of this heading: *Provided further*, That up to 3 percent of the amounts made available under this heading in this Act in each of fiscal years 2022 through 2026 shall be for salaries, expenses, and administration: *Provided further*, That one-half of one percent of the amounts made available under this heading in this Act in each of fiscal years 2022 through 2026 shall be transferred to the Office of Inspector General of the Department of Agriculture for oversight of funding provided to the Forest Service in this title in this Act: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

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NATIONAL FOREST SYSTEM

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "National Forest System", $2,854,000,000, to remain available until expended: *Provided*, That $734,800,000, to remain available until expended, shall be made available for fiscal year 2022, $529,800,000, to remain available until expended, shall be made available for fiscal year 2023, $529,800,000, to remain available until expended, shall be made available for fiscal year 2024, $529,800,000, to remain available until expended, shall be made available for fiscal year 2025, and $529,800,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the funds made available under this heading in this Act, the following amounts shall be for the following purposes—

(1) $2,115,000,000 for the Secretary of Agriculture, acting through the Chief of the Forest Service, to carry out activities for the Department of Agriculture as authorized in sections 40803 and 40804 of division D of this Act, of which $587,000,000, to remain available until expended, shall be made available for fiscal year 2022 and $382,000,000, to remain available until expended, shall be made available for each of fiscal years 2023 through 2026;

(2) In addition to amounts made available in paragraph (1) for hazardous fuels management activities, $102,800,000 for each of fiscal years 2022 through 2026 for such purposes; and

(3) In addition to amounts made available in paragraph (1) for burned area recovery, $45,000,000 for each of fiscal years 2022 through 2026 for such purposes:

Provided further, That up to $12,000,000 for each of fiscal years 2022 through 2026 from funds made available in paragraph (2) of the preceding proviso may be used to make grants, using any authorities available for the Forest Service under the "State and Private Forestry" appropriation for the purposes of creating incentives for increased use of biomass from National Forest System lands, including the Community Wood Energy Program and the Wood Innovation Grants Program: *Provided further*, That up to $8,000,000 for each of fiscal years 2022 through 2026 from funds made available in paragraph (2) of the preceding proviso shall be for implementation of the Tribal Forestry Protection Act, as amended (Public Law 108–278): *Provided further*, That funds appropriated under this heading in this Act may be transferred to the United States Fish and Wildlife Service and the National Marine Fisheries Service for the costs of carrying out their responsibilities under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) to consult and conference, as required by section 7 of such Act, in connection with wildland fire management activities: *Provided further*, That the Secretary of the Interior and the Secretary of Agriculture, acting through the Chief of the Forest Service, may authorize the transfer of funds provided under this heading in this Act between the Departments for the purpose of carrying out activities as authorized in section 40804(b)(1) of division D of this Act: *Provided further*, That amounts made available under this heading in this Act for each of fiscal years 2022 through 2026 may be transferred between accounts affected by the Forest

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Service budget restructure outlined in section 435 of division D of the Further Consolidated Appropriations Act, 2020 (Public Law 116–94) to carry out the activities in support of this heading: *Provided further*, That amounts made available under this heading in this Act in each of fiscal years 2022 through 2026 shall be available for salaries and expenses: *Provided further*, That one-half of one percent of the amounts made available under this heading in this Act in each of fiscal years 2022 through 2026 shall be transferred to the Office of Inspector General of the Department of Agriculture for oversight of funding provided to the Forest Service in this title in this Act: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

CAPITAL IMPROVEMENT AND MAINTENANCE

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "Capital Improvement and Maintenance", $360,000,000, to remain available until September 30, 2029: *Provided*, That $72,000,000, to remain available until September 30, 2025, shall be made available for fiscal year 2022, $72,000,000, to remain available until September 30, 2026, shall be made available for fiscal year 2023, $72,000,000, to remain available until September 30, 2027, shall be made available for fiscal year 2024, $72,000,000, to remain available until September 30, 2028, shall be made available for fiscal year 2025, and $72,000,000, to remain available until September 30, 2029, shall be made available for fiscal year 2026: *Provided further*, That of the funds made available under this heading in this Act, the following amounts shall be for the following purposes in equal amounts for each of fiscal years 2022 through 2026—

(1) $250,000,000 to carry out activities of the Legacy Road and Trail Remediation Program, as authorized in Public Law 88–657 (16 U.S.C. 532 et seq.) (commonly known as the "Forest Roads and Trails Act"), as amended by section 40801 of division D of this Act;

(2) $100,000,000 for construction of temporary roads or reconstruction and maintenance of roads to facilitate forest restoration and management projects that reduce wildfire risk; and

(3) $10,000,000 for the removal of non-hydropower Federal dams and for providing dam removal technical assistance:

Provided further, That funds appropriated under this heading in this Act may be transferred to the United States Fish and Wildlife Service and the National Marine Fisheries Service for the costs of carrying out their responsibilities under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) to consult and conference, as required by section 7 of such Act, in connection with wildland fire management activities: *Provided further*, That amounts made available under this heading in this Act for each of fiscal years 2022 through 2026 may be transferred between accounts affected by the Forest Service budget restructure outlined in section 435 of division D of the Further Consolidated Appropriations Act, 2020

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(Public Law 116–94) to carry out the activities in support of this heading: *Provided further*, That one-half of one percent of the amounts made available under this heading in this Act in each of fiscal years 2022 through 2026 shall be transferred to the Office of Inspector General of the Department of Agriculture for oversight of funding provided to the Forest Service in this title in this Act: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "Wildland Fire Management", $696,200,000 to remain available until expended, for the Secretary of Agriculture, acting through the Chief of the Forest Service, to carry out activities for the Department of Agriculture as authorized in section 40803 of division D of this Act: *Provided*, That $552,200,000, to remain available until expended, shall be made available for fiscal year 2022, $36,000,000, to remain available until expended, shall be made available for fiscal year 2023, $36,000,000, to remain available until expended, shall be made available for fiscal year 2024, $36,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $36,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That funds appropriated under this heading in this Act may be transferred to the United States Fish and Wildlife Service and the National Marine Fisheries Service for the costs of carrying out their responsibilities under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) to consult and conference, as required by section 7 of such Act, in connection with wildland fire management activities: *Provided further*, That amounts made available under this heading in this Act for each of fiscal years 2022 through 2026 may be transferred between accounts affected by the Forest Service budget restructure outlined in section 435 of division D of the Further Consolidated Appropriations Act, 2020 (Public Law 116– 94) to carry out the activities in support of this heading: *Provided further*, That amounts made available under this heading in this Act in each of fiscal years 2022 through 2026, shall be available for salaries and expenses to carry out such purposes: *Provided further*, That one-half of one percent of the amounts made available under this heading in this Act in each of fiscal years 2022 through 2026 shall be transferred to the Office of Inspector General of the Department of Agriculture for oversight of funding provided to the Forest Service in this title in this Act: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

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ADMINISTRATIVE PROVISION—FOREST SERVICE

Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture, acting through the Chief of the Forest Service, shall submit to the House and Senate Committees on Appropriations a detailed spend plan for the funds provided to the Forest Service in this title in this Act for fiscal year 2022, and for each fiscal year through 2026, as part of the annual budget submission of the President under section 1105(a) of title 31, United States Code, the Secretary shall submit a detailed spend plan for the funds provided to the Forest Service in this title in this Act for that fiscal year.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "Indian Health Facilities", $3,500,000,000, to remain available until expended, for the provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (68 Stat. 674): *Provided*, That $700,000,000, to remain available until expended, shall be made available for fiscal year 2022, $700,000,000, to remain available until expended, shall be made available for fiscal year 2023, $700,000,000, to remain available until expended, shall be made available for fiscal year 2024, $700,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $700,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That of the amounts made available under this heading, up to $2,200,000,000 shall be for projects that exceed the economical unit cost and shall be available until expended: *Provided further*, That up to three percent of the amounts made available in each fiscal year shall be for salaries, expenses, and administration: *Provided further*, That one-half of one percent of the amounts made available under this heading in this Act in each fiscal years 2022 through 2026 shall be transferred to the Office of Inspector General of the Department of Health and Human Services for oversight of funding provided to the Department of Health and Human Services in this title in this Act: *Provided further*, That no funds available to the Indian Health Service for salaries, expenses, administration, and oversight shall be available for contracts, grants, compacts, or cooperative agreements under the provisions of the Indian Self-Determination and Education Assistance Act as amended: *Provided further*, That funds under this heading made available to Tribes and Tribal organizations under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5301 et seq.) shall be available on a one-time basis, are nonrecurring, and shall not be part of the amount required by section 106 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5325), and shall only be used for the purposes identified in this heading: *Provided further*, That not later than 90 days after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the House and Senate Committees on Appropriations a detailed

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spend plan for fiscal year 2022: *Provided further*, That for each fiscal year through 2026, as part of the annual budget submission of the President under section 1105(a) of title 31, United States Code, the Secretary of Health and Human Services shall submit a detailed spend plan for that fiscal year: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

TITLE VII—LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES

LOW INCOME HOME ENERGY ASSISTANCE

For an additional amount for "Low Income Home Energy Assistance", $500,000,000, to remain available through September 30, 2026, for making payments under subsection (b) of section 2602 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.): *Provided*, That $100,000,000, to remain available until September 30, 2026, shall be made available in fiscal year 2022, $100,000,000, to remain available until September 30, 2026, shall be made available in fiscal year 2023, $100,000,000, to remain available until September 30, 2026, shall be made available in fiscal year 2024, $100,000,000, to remain available until September 30, 2026, shall be made available in fiscal year 2025, and $100,000,000, to remain available until September 30, 2026, shall be made available in fiscal year 2026: *Provided further*, That, of the amount available for obligation in a fiscal year under this heading in this Act, $50,000,000 shall be allocated as though the total appropriation for such payments for such fiscal year was less than $1,975,000,000: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

TITLE VIII—TRANSPORTATION, HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

NATIONAL INFRASTRUCTURE INVESTMENTS

For an additional amount for "National Infrastructure Investments", $12,500,000,000, to remain available until expended, for necessary expenses to carry out chapter 67 of title 49, United States Code, of which $5,000,000,000 shall be to carry out section 6701 of such title and $7,500,000,000 shall be to carry out section 6702 of such title: *Provided*, That, of the amount made available

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under this heading in this Act to carry out section 6701 of title 49, United States Code, $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2022, $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2023, $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2024, $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That, of the amount made available under this heading in this Act to carry out section 6702 of title 49, United States Code, $1,500,000,000, to remain available until September 30, 2026, shall be made available for fiscal year 2022, $1,500,000,000, to remain until September 30, 2027, shall be made available for fiscal year 2023, $1,500,000,000, to remain available until September 30, 2028, shall be made available for fiscal year 2024, $1,500,000,000, to remain available until September 30, 2029, shall be made available for fiscal year 2025, and $1,500,000,000, to remain available September 30, 2030, shall be made available for fiscal year 2026: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and pursuant to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

SAFE STREETS AND ROADS FOR ALL GRANTS

For an additional amount for "Safe Streets and Roads for All Grants", $5,000,000,000, to remain available until expended, for competitive grants, as authorized under section 24112 of division B of this Act: *Provided*, That $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2022, $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2023, $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2024, $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That the Secretary shall issue a notice of funding opportunity not later than 180 days after each date upon which funds are made available under the preceding proviso: *Provided further*, That the Secretary shall make awards not later than 270 days after issuing the notices of funding opportunity required under the preceding proviso: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

NATIONAL CULVERT REMOVAL, REPLACEMENT, AND RESTORATION GRANTS

For an additional amount for "National Culvert Removal, Replacement, and Restoration Grants", $1,000,000,000, to remain available until expended, as authorized by section 6203 of title 49, United States Code: *Provided*, That $200,000,000, to remain

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available until expended, shall be made available for fiscal year 2022, $200,000,000, to remain available until expended, shall be made available for fiscal year 2023, $200,000,000, to remain available until expended, shall be made available for fiscal year 2024, $200,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $200,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

STRENGTHENING MOBILITY AND REVOLUTIONIZING TRANSPORTATION GRANT PROGRAM

For an additional amount for "Strengthening Mobility and Revolutionizing Transportation Grant Program", $500,000,000, to remain available until expended, as authorized by section 25005 of division B of this Act: *Provided*, That $100,000,000, to remain available until expended, shall be made available for fiscal year 2022, $100,000,000, to remain available until expended, shall be made available for fiscal year 2023, $100,000,000, to remain available until expended, shall be made available for fiscal year 2024, $100,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $100,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

ADMINISTRATIVE PROVISIONS—OFFICE OF THE SECRETARY OF TRANSPORTATION

(INCLUDING TRANSFER OF FUNDS)

SEC. 801. (a) Amounts made available to the Secretary of Transportation or the Department of Transportation's Operating Administrations in this title in this Act and in section 117 of title 23, United States Code, for fiscal years 2022 through 2026 for the costs of award, administration, or oversight of financial assistance under the programs administered by the Office of Multimodal Infrastructure and Freight may be transferred to an "Office of Multimodal Infrastructure and Freight" account, to remain available until expended, for the necessary expenses of award, administration, or oversight of any discretionary financial assistance programs funded under this title in this Act or division A of this Act: *Provided*, That one-half of one percent of the amounts transferred pursuant to the authority in this section in each of fiscal years 2022 through 2026 shall be transferred to the Office of Inspector General of the Department of Transportation for oversight of funding provided to the Department of Transportation in this title in this Act: *Provided further*, That the amount provided by this section is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget

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for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) In addition to programs identified in section 118(d) of title 49, United States Code, the Office of Multimodal Infrastructure and Freight shall administer, with support from the Department's Operating Administrations, the following financial assistance programs—

(1) the national infrastructure projects program under section 6701 of title 49, United States Code;

(2) the local and regional projects program under section 6702 of title 49, United States Code;

(3) the strengthening mobility and revolutionizing transportation grant program under section 25005 of division B of this Act;

(4) the nationally significant freight and highways projects under section 117 of title 23, United States Code;

(5) the national culvert removal, replacement, and restoration grant program under section 6203 of title 49, United States Code; and

(6) other discretionary financial assistance programs that the Secretary determines should be administered by the Office of Multimodal Infrastructure and Freight, subject to the approval of the House and Senate Committees on Appropriations as required under section 405 of Division L of the Consolidated Appropriations Act, 2021.

FEDERAL AVIATION ADMINISTRATION

FACILITIES AND EQUIPMENT

For an additional amount for "Facilities and Equipment", $5,000,000,000, to remain available until expended: *Provided*, That $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2022, $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2023, $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2024, $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That amounts made available under this heading in this Act shall be derived from the general fund of the Treasury: *Provided further*, That funds provided under this heading in this Act shall be for: (1) replacing terminal and en route air traffic control facilities; (2) improving air route traffic control center and combined control facility buildings; (3) improving air traffic control en route radar facilities; (4) improving air traffic control tower and terminal radar approach control facilities; (5) national airspace system facilities OSHA and environmental standards compliance; (6) landing and navigational aids; (7) fuel storage tank replacement and management; (8) unstaffed infrastructure sustainment; (9) real property disposition; (10) electrical power system sustain and support; (11) energy maintenance and compliance; (12) hazardous materials management and environmental cleanup; (13) facility security risk management; (14) mobile asset management program; and (15) administrative expenses, including salaries and expenses, administration, and oversight: *Provided further*, That not less than $200,000,000 of

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the funds made available under this heading in this Act shall be for air traffic control towers that are owned by the Federal Aviation Administration and staffed through the contract tower program: *Provided further*, That not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall submit to the House and Senate Committees on Appropriations a detailed spend plan, including a list of project locations of air traffic control towers and contract towers, to be funded for fiscal year 2022: *Provided further*, That for each fiscal year through 2026, as part of the annual budget submission of the President under section 1105(a) of title 31, United States Code, the Secretary of Transportation shall submit a detailed spend plan for funding that will be made available under this heading in the upcoming fiscal year, including a list of projects for replacing facilities that are owned by the Federal Aviation Administration, including air traffic control towers that are staffed through the contract tower program: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

AIRPORT INFRASTRUCTURE GRANTS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Airport Infrastructure Grants", $15,000,000,000, to remain available until September 30, 2030: *Provided*, That $3,000,000,000, to remain available until September 30, 2026, shall be made available for fiscal year 2022, $3,000,000,000, to remain available until September 30, 2027, shall be made available for fiscal year 2023, $3,000,000,000, to remain available until September 30, 2028, shall be made available for fiscal year 2024, $3,000,000,000, to remain available until September 30, 2029, shall be made available for fiscal year 2025, and $3,000,000,000, to remain available until September 30, 2030, shall be made available for fiscal year 2026: *Provided further*, That amounts made available under this heading in this Act shall be derived from the general fund of the Treasury: *Provided further*, That amounts made available under this heading in this Act shall be made available to sponsors of any airport eligible to receive grants under section 47115 of title 49, United States Code, for airport-related projects defined under section 40117(a)(3) of title 49, United States Code: *Provided further*, That of the funds made available under this heading in this Act, in each of fiscal years 2022 through 2026—

(1) Not more than $2,480,000,000 shall be available for primary airports as defined in section 47102(16) of title 49, United States Code, and certain cargo airports: *Provided*, That such funds shall not be subject to the reduced apportionments of section 47114(f) of title 49, United States Code: *Provided further*, That such funds shall first be apportioned as set forth in sections 47114(c)(1)(A), 47114(c)(1)(C)(i), 47114(c)(1)(C)(ii), 47114(c)(2)(A), 47114(c)(2)(B), and 47114(c)(2)(E), 47114(c)(1)(J) of title 49, United States Code: *Provided further*, That there shall be no maximum apportionment limit: *Provided further*,

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That any remaining funds after such apportionment shall be distributed to all sponsors of primary airports (as defined in section 47102(16) of title 49, United States Code) based on each such airport's passenger enplanements compared to total passenger enplanements of all airports defined in section 47102(16) of title 49, United States Code, for calendar year 2019 in fiscal years 2022 and 2023 and thereafter for the most recent calendar year enplanements upon which the Secretary has apportioned funds pursuant to section 47114(c) of title 49, United States Code;

(2) Not more than $500,000,000 shall be for general aviation and commercial service airports that are not primary airports as defined in paragraphs (7), (8), and (16) of section 47102 of title 49, United States Code: *Provided*, That the Secretary of Transportation shall apportion the remaining funds to each non-primary airport based on the categories published in the most current National Plan of Integrated Airport Systems, reflecting the percentage of the aggregate published eligible development costs for each such category, and then dividing the allocated funds evenly among the eligible airports in each category, rounding up to the nearest thousand dollars: *Provided further*, That any remaining funds under this paragraph in this Act shall be distributed as described in paragraph (3) in this proviso under this heading in this Act; and

(3) $20,000,000 for the Secretary of Transportation to make competitive grants to sponsors of airports participating in the contract tower program and the contract tower cost share program under section 47124 of title 49, United States Code to: (1) sustain, construct, repair, improve, rehabilitate, modernize, replace or relocate nonapproach control towers; (2) acquire and install air traffic control, communications, and related equipment to be used in those towers; and (3) construct a remote tower certified by the Federal Aviation Administration, including acquisition and installation of air traffic control, communications, or related equipment: *Provided*, That the Federal Aviation Administration shall give priority consideration to projects that enhance aviation safety and improve air traffic efficiency: *Provided further*, That the Federal share of the costs for which a grant is made under this paragraph shall be 100 percent:

Provided further, That any funds made available in a given fiscal year that remain unobligated at the end of the fourth fiscal year after which they were first made available for obligation shall be made available in the fifth fiscal year after which they were first made available for obligation to the Secretary for competitive grants: *Provided further*, That of the amounts made available to the Secretary for competitive grants under the preceding proviso, the Secretary shall first provide up to $100,000,000, as described in paragraph (3) of the fourth proviso, and any remaining unobligated balances in excess of that amount shall be available to the Secretary for competitive grants otherwise eligible under the third proviso that reduce airport emissions, reduce noise impact to the surrounding community, reduce dependence on the electrical grid, or provide general benefits to the surrounding community: *Provided further*, That none of the amounts made available under this heading in this Act may be used to pay for airport debt service: *Provided further*, That a grant made from funds made available

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under this heading in this Act shall be treated as having been made pursuant to the Secretary's authority under section 47104(a) of title 49, United States Code: *Provided further*, That up to 3 percent of the amounts made available under this heading in this Act in each of fiscal years 2022 through 2026 shall be for personnel, contracting, and other costs to administer and oversee grants, of which $1,000,000 in each fiscal year shall be transferred to the Office of Inspector General of the Department of Transportation for oversight of funding provided to the Department of Transportation in this title in this Act: *Provided further*, That the Federal share of the costs of a project under paragraphs (1) and (2) of the fourth proviso under this heading shall be the percent for which a project for airport development would be eligible under section 47109 of title 49, United States Code: *Provided further*, That obligations of funds under this heading in this Act shall not be subject to any limitations on obligations provided in any Act making annual appropriations: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

AIRPORT TERMINAL PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Airport Terminal Program", $5,000,000,000, to remain available until September 30, 2030, for the Secretary of Transportation to provide competitive grants for airport terminal development projects that address the aging infrastructure of the nation's airports: *Provided*, That $1,000,000,000, to remain available until September 30, 2026, shall be made available for fiscal year 2022, $1,000,000,000, to remain available until September 30, 2027, shall be made available for fiscal year 2023, $1,000,000,000, to remain available until September 30, 2028, shall be made available for fiscal year 2024, $1,000,000,000, to remain available until September 30, 2029, shall be made available for fiscal year 2025, and $1,000,000,000, to remain available until September 30, 2030, shall be made available for fiscal year 2026: *Provided further*, That amounts made available under this heading in this Act shall be derived from the general fund of the Treasury: *Provided further*, That the Secretary shall issue a notice of funding opportunity not later than 60 days after the date of enactment of this Act: *Provided further*, That of the funds made available under this heading in this Act, not more than 55 percent shall be for large hub airports, not more than 15 percent shall be for medium hub airports, not more than 20 percent shall be for small hub airports, and not less than 10 percent shall be for nonhub and nonprimary airports: *Provided further*, That in awarding grants for terminal development projects from funds made available under this heading in this Act, the Secretary may consider projects that qualify as "terminal development" (including multimodal terminal development), as that term is defined in 49 U.S.C. §47102(28), projects for on-airport rail access projects as set forth in Passenger Facility Charge (PFC) Update 75–21, and projects for relocating, reconstructing, repairing, or improving an airport-owned air traffic

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control tower: *Provided further*, That in awarding grants for terminal development projects from funds made available under this heading in this Act, the Secretary shall give consideration to projects that increase capacity and passenger access; projects that replace aging infrastructure; projects that achieve compliance with the Americans with Disabilities Act and expand accessibility for persons with disabilities; projects that improve airport access for historically disadvantaged populations; projects that improve energy efficiency, including upgrading environmental systems, upgrading plant facilities, and achieving Leadership in Energy and Environmental Design (LEED) accreditation standards; projects that improve airfield safety through terminal relocation; and projects that encourage actual and potential competition: *Provided further*, That the Federal share of the cost of a project carried out from funds made available under this heading in this Act shall be 80 percent for large and medium hub airports and 95 percent for small hub, nonhub, and nonprimary airports: *Provided further*, That a grant made from funds made available under this heading in this Act shall be treated as having been made pursuant to the Secretary's authority under section 47104(a) of title 49, United States Code: *Provided further*, That the Secretary may provide grants from funds made available under this heading in this Act for a project at any airport that is eligible to receive a grant from the discretionary fund under section 47115(a) of title 49, United States Code: *Provided further*, That in making awards from funds made available under this heading in this Act, the Secretary shall provide a preference to projects that achieve a complete development objective, even if awards for the project must be phased, and the Secretary shall prioritize projects that have received partial awards: *Provided further*, That up to 3 percent of the amounts made available under this heading in this Act in each fiscal year shall be for personnel, contracting and other costs to administer and oversee grants, of which $1,000,000 in each fiscal year shall be transferred to the Office of Inspector General of the Department of Transportation for oversight of funding provided to the Department of Transportation in this title in this Act: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

FEDERAL HIGHWAY ADMINISTRATION

HIGHWAY INFRASTRUCTURE PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Highway Infrastructure Programs", $47,272,000,000, to remain available until expended except as otherwise provided under this heading: *Provided*, That of the amount provided under this heading in this Act, $9,454,400,000, to remain available until September 30, 2025, shall be made available for fiscal year 2022, $9,454,400,000, to remain available until September 30, 2026, shall be made available for fiscal year 2023, $9,454,400,000, to remain available until September 30, 2027, shall be made available for fiscal year 2024, $9,454,400,000, to remain

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available until September 30, 2028, shall be made available for fiscal year 2025, and $9,454,400,000, to remain available until September 30, 2029, shall be made available for fiscal year 2026: *Provided further*, That the funds made available under this heading in this Act shall be derived from the general fund of the Treasury, shall be in addition to any other amounts made available for such purpose, and shall not affect the distribution or amount of funds provided in any Act making annual appropriations: *Provided further*, That, except for funds provided in paragraph (1) under this heading in this Act, up to 1.5 percent of the amounts made available under this heading in this Act in each of fiscal years 2022 through 2026 shall be for operations and administrations of the Federal Highway Administration, of which $1,000,000 in each fiscal year shall be transferred to the Office of the Inspector General of the Department of Transportation for oversight of funding provided to the Department of Transportation in this title in this Act: *Provided further*, That the amounts made available in the preceding proviso may be combined with the funds made available in paragraph (1) under this heading in this Act for the same purposes in the same account: *Provided further*, That the funds made available under this heading in this Act shall not be subject to any limitation on obligations for Federal-aid highways or highway safety construction programs set forth in any Act making annual appropriations: *Provided further*, That, of the amount provided under this heading in this Act, the following amounts shall be for the following purposes in equal amounts for each of fiscal years 2022 through 2026—

(1) $27,500,000,000 shall be for a bridge replacement, rehabilitation, preservation, protection, and construction program: *Provided further*, That, except as otherwise provided under this paragraph in this Act, the funds made available under this paragraph in this Act shall be administered as if apportioned under chapter 1 of title 23, United States Code: *Provided further*, That a project funded with funds made available under this paragraph in this Act shall be treated as a project on a Federal-aid highway: *Provided further*, That, of the funds made available under this paragraph in this Act for a fiscal year, 3 percent shall be set aside to carry out section 202(d) of title 23, United States Code: *Provided further*, That funds set aside under the preceding proviso to carry out section 202(d) of such title shall be in addition to funds otherwise made available to carry out such section and shall be administered as if made available under such section: *Provided further*, That for funds set aside under the third proviso of this paragraph in this Act to carry out section 202(d) of title 23, United States Code, the Federal share of the costs shall be 100 percent: *Provided further*, That, for the purposes of funds made available under this paragraph in this Act: (1) the term "State" has the meaning given such term in section 101 of title 23, United States Code; (2) the term "off-system bridge" means a highway bridge located on a public road, other than a bridge on a Federal-aid highway; and (3) the term "Federal-aid highway" means a public highway eligible for assistance under chapter 1 of title 23, United States Code, other than a highway functionally classified as a local road or rural minor collector: *Provided further*, That up to one-half of one percent of the amounts made available under this

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paragraph in this Act in each fiscal year shall be for the administration and operations of the Federal Highway Administration: *Provided further*, That, after setting aside funds under the third proviso of this paragraph in this Act the Secretary shall distribute the remaining funds made available under this paragraph in this Act among States as follows—

(A) 75 percent by the proportion that the total cost of replacing all bridges classified in poor condition in such State bears to the sum of the total cost to replace all bridges classified in poor condition in all States; and

(B) 25 percent by the proportion that the total cost of rehabilitating all bridges classified in fair condition in such State bears to the sum of the total cost to rehabilitate all bridges classified in fair condition in all States:

Provided further, That the amounts calculated under the preceding proviso shall be adjusted such that each State receives, for each of fiscal years 2022 through 2026, no less than $45,000,000 under such proviso: *Provided further*, That for purposes of the preceding 2 provisos, the Secretary shall determine replacement and rehabilitation costs based on the average unit costs of bridges from 2016 through 2020, as submitted by States to the Federal Highway Administration, as required by section 144(b)(5) of title 23, United States Code: *Provided further*, That for purposes of determining the distribution of funds to States under this paragraph in this Act, the Secretary shall calculate the total deck area of bridges classified as in poor or fair condition based on the National Bridge Inventory as of December 31, 2020: *Provided further*, That, subject to the following proviso, funds made available under this paragraph in this Act that are distributed to States shall be used for highway bridge replacement, rehabilitation, preservation, protection, or construction projects on public roads: *Provided further*, That of the funds made available under this paragraph in this Act that are distributed to a State, 15 percent shall be set aside for use on off-system bridges for the same purposes as described in the preceding proviso: *Provided further*, That, except as provided in the following proviso, for funds made available under this paragraph in this Act that are distributed to States, the Federal share shall be determined in accordance with section 120 of title 23, United States Code: *Provided further*, That for funds made available under this paragraph in this Act that are distributed to States and used on an off-system bridge that is owned by a county, town, township, city, municipality or other local agency, or federally-recognized Tribe the Federal share shall be 100 percent;

(2) $5,000,000,000, to remain available until expended for amounts made available for each of fiscal years 2022 through 2026, shall be to carry out a National Electric Vehicle Formula Program (referred to in this paragraph in this Act as the "Program") to provide funding to States to strategically deploy electric vehicle charging infrastructure and to establish an interconnected network to facilitate data collection, access, and reliability: *Provided*, That funds made available under this paragraph in this Act shall be used for: (1) the acquisition and installation of electric vehicle charging infrastructure to serve as a catalyst for the deployment of such infrastructure and to connect it to a network to facilitate data collection, access, and reliability; (2) proper operation and maintenance of electric vehicle charging infrastructure; and (3) data sharing

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about electric vehicle charging infrastructure to ensure the long-term success of investments made under this paragraph in this Act: *Provided further*, That for each of fiscal years 2022 through 2026, the Secretary shall distribute among the States the funds made available under this paragraph in this Act so that each State receives an amount equal to the proportion that the total base apportionment or allocation determined for the State under subsection (c) of section 104 or under section 165 of title 23, United States Code, bears to the total base apportionments or allocations for all States under subsection (c) of section 104 and section 165 of title 23, United States Code: *Provided further*, That the Federal share payable for the cost of a project funded under this paragraph in this Act shall be 80 percent: *Provided further*, That the Secretary shall establish a deadline by which a State shall provide a plan to the Secretary, in such form and such manner that the Secretary requires (to be made available on the Department's website), describing how such State intends to use funds distributed to the State under this paragraph in this Act to carry out the Program for each fiscal year in which funds are made available: *Provided further*, That, not later than 120 days after the deadline established in the preceding proviso, the Secretary shall make publicly available on the Department's website and submit to the House Committee on Transportation and Infrastructure, the Senate Committee on Environment and Public Works, and the House and Senate Committees on Appropriations, a report summarizing each plan submitted by a State to the Department of Transportation and an assessment of how such plans make progress towards the establishment of a national network of electric vehicle charging infrastructure: *Provided further*, That if a State fails to submit the plan required under the fourth proviso of this paragraph in this Act to the Secretary by the date specified in such proviso, or if the Secretary determines a State has not taken action to carry out its plan, the Secretary may withhold or withdraw, as applicable, funds made available under this paragraph in this Act for the fiscal year from the State and award such funds on a competitive basis to local jurisdictions within the State for use on projects that meet the eligibility requirements under this paragraph in this Act: *Provided further*, That, prior to the Secretary making a determination that a State has not taken actions to carry out its plan, the Secretary shall notify the State, consult with the State, and identify actions that can be taken to rectify concerns, and provide at least 90 days for the State to rectify concerns and take action to carry out its plan: *Provided further*, That the Secretary shall provide notice to a State on the intent to withhold or withdraw funds not less than 60 days before withholding or withdrawing any funds, during which time the States shall have an opportunity to appeal a decision to withhold or withdraw funds directly to the Secretary: *Provided further*, That if the Secretary determines that any funds withheld or withdrawn from a State under the preceding proviso cannot be fully awarded to local jurisdictions within the State under the preceding proviso in a manner consistent with the purpose of this paragraph in this Act, any such funds remaining shall be distributed among other States (except States for which funds for that fiscal year

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have been withheld or withdrawn under the preceding proviso) in the same manner as funds distributed for that fiscal year under the second proviso under this paragraph in this Act, except that the ratio shall be adjusted to exclude States for which funds for that fiscal year have been withheld or withdrawn under the preceding proviso: *Provided further*, That funds distributed under the preceding proviso shall only be available to carry out this paragraph in this Act: *Provided further*, That funds made available under this paragraph in this Act may be used to contract with a private entity for acquisition and installation of publicly accessible electric vehicle charging infrastructure and the private entity may pay the non-Federal share of the cost of a project funded under this paragraph: *Provided further*, That funds made available under this paragraph in this Act shall be for projects directly related to the charging of a vehicle and only for electric vehicle charging infrastructure that is open to the general public or to authorized commercial motor vehicle operators from more than one company: *Provided further*, That any electric vehicle charging infrastructure acquired or installed with funds made available under this paragraph in this Act shall be located along a designated alternative fuel corridor: *Provided further*, That no later than 90 days after the date of enactment of this Act, the Secretary of Transportation, in coordination with the Secretary of Energy, shall develop guidance for States and localities to strategically deploy electric vehicle charging infrastructure, consistent with this paragraph in this Act: *Provided further*, That the Secretary of Transportation, in coordination with the Secretary of Energy, shall consider the following in developing the guidance described in the preceding proviso: (1) the distance between publicly available electric vehicle charging infrastructure; (2) connections to the electric grid, including electric distribution upgrades; vehicle-to-grid integration, including smart charge management or other protocols that can minimize impacts to the grid; alignment with electric distribution interconnection processes, and plans for the use of renewable energy sources to power charging and energy storage; (3) the proximity of existing off-highway travel centers, fuel retailers, and small businesses to electric vehicle charging infrastructure acquired or funded under this paragraph in this Act; (4) the need for publicly available electric vehicle charging infrastructure in rural corridors and underserved or disadvantaged communities; (5) the long-term operation and maintenance of publicly available electric vehicle charging infrastructure to avoid stranded assets and protect the investment of public funds in that infrastructure; (6) existing private, national, State, local, Tribal, and territorial government electric vehicle charging infrastructure programs and incentives; (7) fostering enhanced, coordinated, public-private or private investment in electric vehicle charging infrastructure; (8) meeting current and anticipated market demands for electric vehicle charging infrastructure, including with regard to power levels and charging speed, and minimizing the time to charge current and anticipated vehicles; and (9) any other factors, as determined by the Secretary: *Provided further*, That if a State determines, and the Secretary certifies, that the designated alternative fuel corridors in the States are fully built out, then the State may use funds provided

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under this paragraph for electric vehicle charging infrastructure on any public road or in other publically accessible locations, such as parking facilities at public buildings, public schools, and public parks, or in publically accessible parking facilities owned or managed by a private entity: *Provided further*, That subject to the minimum standards and requirements established under the following proviso, funds made available under this paragraph in this Act may be used for: (1) the acquisition or installation of electric vehicle charging infrastructure; (2) operating assistance for costs allocable to operating and maintaining electric vehicle charging infrastructure acquired or installed under this paragraph in this Act, for a period not to exceed five years; (3) the acquisition or installation of traffic control devices located in the right-of-way to provide directional information to electric vehicle charging infrastructure acquired, installed, or operated under this paragraph in this Act; (4) on-premises signs to provide information about electric vehicle charging infrastructure acquired, installed, or operated under this paragraph in this Act; (5) development phase activities relating to the acquisition or installation of electric vehicle charging infrastructure, as determined by the Secretary; or (6) mapping and analysis activities to evaluate, in an area in the United States designated by the eligible entity, the locations of current and future electric vehicle owners, to forecast commuting and travel patterns of electric vehicles and the quantity of electricity required to serve electric vehicle charging stations, to estimate the concentrations of electric vehicle charging stations to meet the needs of current and future electric vehicle drivers, to estimate future needs for electric vehicle charging stations to support the adoption and use of electric vehicles in shared mobility solutions, such as micro-transit and transportation network companies, and to develop an analytical model to allow a city, county, or other political subdivision of a State or a local agency to compare and evaluate different adoption and use scenarios for electric vehicles and electric vehicle charging stations: *Provided further*, That not later than 180 days after the date of enactment of this Act, the Secretary of Transportation, in coordination with the Secretary of Energy and in consultation with relevant stakeholders, shall, as appropriate, develop minimum standards and requirements related to: (1) the installation, operation, or maintenance by qualified technicians of electric vehicle charging infrastructure under this paragraph in this Act; (2) the interoperability of electric vehicle charging infrastructure under this paragraph in this Act; (3) any traffic control device or on-premises sign acquired, installed, or operated under this paragraph in this Act; (4) any data requested by the Secretary related to a project funded under this paragraph in this Act, including the format and schedule for the submission of such data; (5) network connectivity of electric vehicle charging infrastructure; and (6) information on publicly available electric vehicle charging infrastructure locations, pricing, real-time availability, and accessibility through mapping applications: *Provided further*, That not later than 1 year after the date of enactment of this Act, the Secretary shall designate national electric vehicle charging corridors that identify the near- and long-term need for, and the location of, electric vehicle charging

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infrastructure to support freight and goods movement at strategic locations along major national highways, the National Highway Freight Network established under section 167 of title 23, United States Code, and goods movement locations including ports, intermodal centers, and warehousing locations: *Provided further*, That the report issued under section 151(e) of title 23, United States Code, shall include a description of efforts to achieve strategic deployment of electric vehicle charging infrastructure in electric vehicle charging corridors, including progress on the implementation of the Program under this paragraph in this Act: *Provided further*, That, for fiscal year 2022, before distributing funds made available under this paragraph in this Act to States, the Secretary shall set aside from funds made available under this paragraph in this Act to carry out this paragraph in this Act not more than $300,000,000, which may be transferred to the Joint Office described in the twenty-fourth proviso of this paragraph in this Act, to establish such Joint Office and carry out its duties under this paragraph in this Act: *Provided further*, That, for each of fiscal years 2022 through 2026, after setting aside funds under the preceding proviso, and before distributing funds made available under this paragraph in this Act to States, the Secretary shall set aside from funds made available under this paragraph in this Act for such fiscal year to carry out this paragraph in this Act 10 percent for grants to States or localities that require additional assistance to strategically deploy electric vehicle charging infrastructure: *Provided further*, That not later than 1 year after the date of enactment of this Act, the Secretary shall establish a grant program to administer to States or localities the amounts set aside under the preceding proviso: *Provided further*, That, except as otherwise specified under this paragraph in this Act, funds made available under this paragraph in this Act, other than funds transferred under the nineteenth proviso of this paragraph in this Act to the Joint Office, shall be administered as if apportioned under chapter 1 of title 23, United States Code: *Provided further*, That funds made available under this paragraph in this Act shall not be transferable under section 126 of title 23, United States Code: *Provided further*, That there is established a Joint Office of Energy and Transportation (referred to in this paragraph in this Act as the "Joint Office") in the Department of Transportation and the Department of Energy to study, plan, coordinate, and implement issues of joint concern between the two agencies, which shall include: (1) technical assistance related to the deployment, operation, and maintenance of zero emission vehicle charging and refueling infrastructure, renewable energy generation, vehicle-to-grid integration, including microgrids, and related programs and policies; (2) data sharing of installation, maintenance, and utilization in order to continue to inform the network build out of zero emission vehicle charging and refueling infrastructure; (3) performance of a national and regionalized study of zero emission vehicle charging and refueling infrastructure needs and deployment factors, to support grants for community resilience and electric vehicle integration; (4) development and deployment of training and certification programs; (5) establishment and implementation of a program to promote renewable

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energy generation, storage, and grid integration, including microgrids, in transportation rights-of-way; (6) studying, planning, and funding for high-voltage distributed current infrastructure in the rights-of way of the Interstate System and for constructing high-voltage and or medium-voltage transmission pilots in the rights-of-way of the Interstate System; (7) research, strategies, and actions under the Departments' statutory authorities to reduce transportation-related emissions and mitigate the effects of climate change; (8) development of a streamlined utility accommodations policy for high-voltage and medium-voltage transmission in the transportation right-of-way; and (9) any other issues that the Secretary of Transportation and the Secretary of Energy identify as issues of joint interest: *Provided further*, That the Joint Office of Energy and Transportation shall establish and maintain a public database, accessible on both Department of Transportation and Department of Energy websites, that includes: (1) information maintained on the Alternative Fuel Data Center by the Office of Energy Efficiency and Renewable Energy of the Department of Energy with respect to the locations of electric vehicle charging stations; (2) potential locations for electric vehicle charging stations identified by eligible entities through the program; and (3) the ability to sort generated results by various characteristics with respect to electric vehicle charging stations, including location, in terms of the State, city, or county; status (operational, under construction, or planned); and charging type, in terms of Level 2 charging equipment or Direct Current Fast Charging Equipment: *Provided further*, That the Secretary of Transportation and the Secretary of Energy shall cooperatively administer the Joint Office consistent with this paragraph in this Act: *Provided further*, That the Secretary of Transportation and the Secretary of Energy may transfer funds between the Department of Transportation and the Department of Energy from funds provided under this paragraph in this Act to establish the Joint Office and to carry out its duties under this paragraph in this Act and any such funds or portions thereof transferred to the Joint Office may be transferred back to and merged with this account: *Provided further*, That the Secretary of Transportation and the Secretary of Energy shall notify the House and Senate Committees on Appropriations not less than 15 days prior to transferring any funds under the previous proviso: *Provided further*, That for the purposes of funds made available under this paragraph in this Act: (1) the term "State" has the meaning given such term in section 101 of title 23, United States Code; and (2) the term "Federal-aid highway" means a public highway eligible for assistance under chapter 1 of title 23, United States Code, other than a highway functionally classified as a local road or rural minor collector: *Provided further*, That, of the funds made available in this division or division A of this Act for the Federal lands transportation program under section 203 of title 23, United States Code, not less than $7,000,000 shall be made available for each Federal agency otherwise eligible to compete for amounts made available under that section for each of fiscal years 2022 through 2026;

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(3) $3,200,000,000 shall be to carry out the Nationally Significant Freight and Highway Projects program under section 117 of title 23, United States Code;

(4) $9,235,000,000 shall be to carry out the Bridge Investment Program under section 124 of title 23, United States Code: *Provided*, That, of the funds made available under this paragraph in this Act for a fiscal year, $20,000,000 shall be set aside to carry out section 202(d) of title 23, United States Code: *Provided further*, That, of the funds made available under this paragraph in this Act for a fiscal year, $20,000,000 shall be set aside to provide grants for planning, feasibility analysis, and revenue forecasting associated with the development of a project that would subsequently be eligible to apply for assistance under this paragraph: *Provided further*, That funds set aside under the first proviso of this paragraph in this Act to carry out section 202(d) of such title shall be in addition to funds otherwise made available to carry out such section and shall be administered as if made available under such section: *Provided further*, That for funds set aside under the first proviso of this paragraph in this Act to carry out section 202(d) of title 23, United States Code, the Federal share of the costs shall be 100 percent;

(5) $150,000,000 shall be to carry out the Reduction of Truck Emissions at Port Facilities Program under section 11402 of division A of this Act: *Provided*, That, except as otherwise provided in section 11402 of division A of this Act, the funds made available under this paragraph in this Act shall be administered as if apportioned under chapter 1 of title 23, United States Code;

(6) $95,000,000, to remain available until expended for amounts made available for each of fiscal years 2022 through 2026, shall be to carry out the University Transportation Centers Program under section 5505 of title 49, United States Code;

(7) $500,000,000, to remain available until expended for amounts made available for each of fiscal years 2022 through 2026, shall be to carry out the Reconnecting Communities Pilot Program (referred to under this paragraph in this Act as the "pilot program") under section 11509 of division A of this Act, of which $100,000,000 shall be for planning grants under section 11509(c) of division A of this Act and of which $400,000,000 shall be available for capital construction grants under section 11509(d) of division A of this Act: *Provided*, That of the amounts made available under this paragraph in this Act for section 11509(c) of division A of this Act, the Secretary may use not more than $15,000,000 during the period of fiscal years 2022 through 2026 to provide technical assistance under section 11509(c)(3) of division A of this Act: *Provided further*, That, except as otherwise provided in section 11509 of division A of this Act, amounts made available under this paragraph in this Act shall be administered as if made available under chapter 1 of title 23, United States Code;

(8) $342,000,000, to remain available until expended for amounts made available for each of fiscal years 2022 through 2026, shall be to carry out the Construction of Ferry Boats and Ferry Terminal Facilities program under section 147 of title 23, United States Code: *Provided*, That amounts made

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available under this paragraph in this Act shall be administered as if made available under section 147 of title 23, United States Code; and

(9) $1,250,000,000, to remain available until expended for amounts made available for each of fiscal years 2022 through 2026, shall be for construction of the Appalachian Development Highway System as authorized under section 1069(y) of Public Law 102–240: *Provided*, That, for the purposes of funds made available under this paragraph in this Act for construction of the Appalachian Development Highway System, the term "Appalachian State" means a State that contains 1 or more counties (including any political subdivision located within the area) in the Appalachian region, as defined in section 14102(a) of title 40, United States Code: *Provided further*, That a project carried out with funds made available under this paragraph in this Act for construction of the Appalachian Development Highway System shall be made available for obligation in the same manner as if apportioned under chapter 1 of title 23, United States Code, except that: (1) the Federal share of the cost of any project carried out with those amounts shall be determined in accordance with section 14501 of title 40, United States Code; and (2) the amounts shall be available to construct highways and access roads under section 14501 of title 40, United States Code: *Provided further*, That, subject to the following two provisos, in consultation with the Appalachian Regional Commission, the funds made available under this paragraph in this Act for construction of the Appalachian Development Highway System shall be apportioned to Appalachian States according to the percentages derived from the 2021 Appalachian Development Highway System Cost-to-Complete Estimate, dated March 2021, and confirmed as each Appalachian State's relative share of the estimated remaining need to complete the Appalachian Development Highway System, adjusted to exclude those corridors that such States have no current plans to complete, as reported in the 2013 Appalachian Development Highway System Completion Report, unless those States have modified and assigned a higher priority for completion of an Appalachian Development Highway System corridor, as reported in the 2020 Appalachian Development Highway System Future Outlook: *Provided further*, That the Secretary shall adjust apportionments made under the third proviso in this paragraph in this Act so that no Appalachian State shall be apportioned an amount in excess of 30 percent of the amount made available for construction of the Appalachian Development Highway System under this heading: *Provided further*, That the Secretary shall adjust apportionments made under the third proviso in this paragraph in this Act so that: (1) each State shall be apportioned an amount not less than $10,000,000 for each of fiscal years 2022 through 2026; and (2) notwithstanding paragraph (1) of this proviso, a State shall not receive an apportionment that exceeds the remaining funds needed to complete the Appalachian development highway corridor or corridors in the State, as identified in the latest available cost to complete estimate for the system prepared by the Appalachian Regional Commission: *Provided further*, That the Federal share of the cost of any project carried out with

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funds made available under this paragraph in this Act shall be up to 100 percent, as determined by the State:
Provided further, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

MOTOR CARRIER SAFETY OPERATIONS AND PROGRAM

For an additional amount for "Motor Carrier Safety Operations and Program", $50,000,000, to remain available until September 30, 2029, to carry out motor carrier safety operations and programs pursuant to section 31110 of title 49, United States Code, in addition to amounts otherwise provided for such purpose: *Provided*, That $10,000,000, to remain available until September 30, 2025, shall be made available for fiscal year 2022, $10,000,000, to remain available until September 30, 2026, shall be made available for fiscal year 2023, $10,000,000, to remain available until September 30, 2027, shall be made available for fiscal year 2024, $10,000,000, to remain available until September 30, 2028, shall be made available for fiscal year 2025, and $10,000,000, to remain available until September 30, 2029, shall be made available for fiscal year 2026: *Provided further*, That amounts made available under this heading in this Act shall be derived from the general fund of the Treasury, shall be in addition to any other amounts made available for such purpose, and shall not affect the distribution or amount of funds provided in any Act making annual appropriations: *Provided further*, That obligations of funds under this heading in this Act shall not be subject to any limitations on obligations provided in any Act making annual appropriations: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and pursuant to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

MOTOR CARRIER SAFETY GRANTS

For an additional amount for "Motor Carrier Safety Grants", $622,500,000, to remain available until September 30, 2029, to carry out sections 31102, 31103, 31104, and 31313 of title 49, United States Code, in addition to amounts otherwise provided for such purpose: *Provided*, That $124,500,000, to remain available until September 30, 2025, shall be made available for fiscal year 2022, $124,500,000, to remain available until September 30, 2026, shall be made available for fiscal year 2023, $124,500,000, to remain available until September 30, 2027, shall be made available for fiscal year 2024, $124,500,000, to remain available until September 30, 2028, shall be made available for fiscal year 2025, and $124,500,000, to remain available until September 30, 2029, shall be made available for fiscal year 2026: *Provided further*, That, of the amounts provided under this heading in this Act, the following amounts shall be available for the following purposes in equal amounts for each of fiscal years 2022 through 2026—

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(1) up to $400,000,000 shall be for the motor carrier safety assistance program;

(2) up to $80,000,000 shall be for the commercial driver's license program implementation program;

(3) up to $132,500,000 shall be for the high priority activities program; and

(4) up to $10,000,000 shall be for commercial motor vehicle operators grants:

Provided further, That amounts made available under this heading in this Act shall be derived from the general fund of the Treasury, shall be in addition to any other amounts made available for such purpose, and shall not affect the distribution or amount of funds provided in any Act making annual appropriations: *Provided further*, That obligations of funds under this heading in this Act shall not be subject to any limitations on obligations provided in any Act making annual appropriations: *Provided further*, That up to 1.5 percent of the amounts made available under this heading in this Act in each fiscal year shall be for oversight and administration: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and pursuant to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

CRASH DATA

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Crash Data", $750,000,000, to remain available until September 30, 2029, to carry out section 24108 of division B of this Act: *Provided*, That $150,000,000, to remain available until September 30, 2025, shall be made available for fiscal year 2022, $150,000,000, to remain available until September 30, 2026, shall be made available for fiscal year 2023, $150,000,000, to remain available until September 30, 2027, shall be made available for fiscal year 2024, $150,000,000, to remain available until September 30, 2028, shall be made available for fiscal year 2025, and $150,000,000, to remain available until September 30, 2029, shall be made available for fiscal year 2026: *Provided further*, That up to 3 percent of the amounts made available under this heading in this Act in each of fiscal years 2022 through 2026 shall be for salaries and expenses, administration, and oversight, and shall be transferred and merged with the appropriations under the heading "Operations and Research": *Provided further*, That not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall submit to the House and Senate Committees on Appropriations a funding allocation plan for fiscal year 2022: *Provided further*, That for each fiscal year through 2026, as part of the annual budget submission of the President under section 1105(a) of title 31, United States Code, the Secretary of Transportation shall submit a funding allocation plan for funding that will be made available under this heading in the upcoming fiscal year: *Provided further*, That such amount

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is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and pursuant to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

VEHICLE SAFETY AND BEHAVIORAL RESEARCH PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Vehicle Safety and Behavioral Research Programs", $548,500,000, to remain available until September 30, 2029, to carry out the provisions of section 403 of title 23, United States Code, including behavioral research on Automated Systems and Advanced Driver Assistance Systems and improving consumer responses to safety recalls, and chapter 303 of title 49, United States Code, in addition to amounts otherwise provided for such purpose: *Provided*, That $109,700,000, to remain available until September 30, 2025, shall be made available for fiscal year 2022, $109,700,000, to remain available until September 30, 2026, shall be made available for fiscal year 2023, $109,700,000, to remain available until September 30, 2027, shall be made available for fiscal year 2024, $109,700,000, to remain available until September 30, 2028, shall be made available for fiscal year 2025, and $109,700,000 to remain available until September 30, 2029, shall be made available for fiscal year 2026: *Provided further*, That amounts made available under this heading in this Act shall be derived from the general fund of the Treasury: *Provided further*, That obligations of funds under this heading in this Act shall not be subject to any limitations on obligations provided in any Act making annual appropriations: *Provided further*, That of the amounts made available under this heading in this Act, up to $350,000,000 may be transferred to "Operations and Research" to carry out traffic and highway safety authorized under chapter 301 and part C of subtitle VI of title 49, United States Code: *Provided further*, That not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall submit to the House and Senate Committees on Appropriations a funding allocation for fiscal year 2022: *Provided further*, That for each fiscal year through 2026, as part of the annual budget submission of the President under section 1105(a) of title 31, United States Code, the Secretary of Transportation shall submit a funding allocation for funding that will be made available under this heading in the upcoming fiscal year: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and pursuant to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

SUPPLEMENTAL HIGHWAY TRAFFIC SAFETY PROGRAMS

For an additional amount for "Supplemental Highway Traffic Safety Programs", $310,000,000, to remain available until September 30, 2029, to carry out sections 402 and 405 of title 23, United States Code, and section 24101(a)(5) of division B of this Act: *Provided*, That $62,000,000, to remain available until September 30, 2025, shall be made available for fiscal year 2022,

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$62,000,000, to remain available until September 30, 2026, shall be made available for fiscal year 2023, $62,000,000, to remain available until September 30, 2027, shall be made available for fiscal year 2024, $62,000,000, to remain available until September 30, 2028, shall be made available for fiscal year 2025, and $62,000,000 to remain available until September 30, 2029, shall be made available for fiscal year 2026: *Provided further*, That amounts made available under this heading in this Act shall be derived from the general fund of the Treasury: *Provided further*, That obligations of funds under this heading in this Act shall not be subject to any limitations on obligations provided in any Act making annual appropriations: *Provided further*, That, of the amounts provided under this heading in this Act, the following amounts shall be for the following purposes in equal amounts for each of fiscal years 2022 through 2026:

(1) $100,000,000 shall be for highway safety programs under section 402 of title 23, United States Code;

(2) $110,000,000 shall be for national priority safety programs under section 405 of title 23, United States Code; and

(3) $100,000,000 shall be for administrative expenses under section 24101(a)(5) of division B of this Act:

Provided further, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and pursuant to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

FEDERAL RAILROAD ADMINISTRATION

CONSOLIDATED RAIL INFRASTRUCTURE AND SAFETY IMPROVEMENTS

For an additional amount for "Consolidated Rail Infrastructure and Safety Improvements", $5,000,000,000, to remain available until expended, for competitive grants, as authorized under section 22907 of title 49, United States Code: *Provided*, That $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2022, $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2023, $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2024, $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $1,000,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That the Secretary may withhold up to 2 percent of the amounts provided under this heading in this Act in each fiscal year for the costs of award and project management oversight of grants carried out under section 22907 of title 49, United States Code: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

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NORTHEAST CORRIDOR GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Northeast Corridor Grants to the National Railroad Passenger Corporation", $6,000,000,000, to remain available until expended, for activities associated with the Northeast Corridor, as authorized by section 22101(a) of division B of this Act: *Provided*, That $1,200,000,000, to remain available until expended, shall be made available for fiscal year 2022, $1,200,000,000, to remain available until expended, shall be made available for fiscal year 2023, $1,200,000,000, to remain available until expended, shall be made available for fiscal year 2024, $1,200,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $1,200,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That the amounts made available under this heading in this Act shall be made available for capital projects for the purpose of eliminating the backlog of obsolete assets and Amtrak's deferred maintenance backlog of rolling stock, facilities, stations, and infrastructure: *Provided further*, That amounts made available under this heading in this Act shall be made available for the following capital projects—

(1) acquiring new passenger rolling stock for the replacement of single-level passenger cars used in Amtrak's Northeast Corridor services, and associated rehabilitation, upgrade, and expansion of facilities used to maintain and store such equipment;

(2) bringing Amtrak-served stations to full compliance with the Americans with Disabilities Act;

(3) eliminating the backlog of deferred capital work on sole-benefit Amtrak-owned assets located on the Northeast Corridor; or

(4) carrying out Northeast Corridor capital renewal backlog projects:

Provided further, That not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall submit to the House and Senate Committees on Appropriations a detailed spend plan, including a list of project locations under the preceding proviso to be funded for fiscal year 2022: *Provided further*, That for each fiscal year through 2026, as part of the annual budget submission of the President under section 1105(a) of title 31, United States Code, the Secretary of Transportation shall submit a detailed spend plan for that fiscal year, including a list of project locations under the third proviso: *Provided further*, That amounts made available under this heading in this Act shall be in addition to other amounts made available for such purposes, including to enable the Secretary of Transportation to make or amend existing grants to Amtrak for activities associated with the Northeast Corridor, as authorized by section 22101(a) of division B of this Act: *Provided further*, That amounts made available under this heading in this Act may be used by Amtrak to fund, in whole or in part, the capital costs of Northeast Corridor capital renewal backlog projects, including the costs of joint public transportation and intercity passenger rail capital projects, notwithstanding the limitations in section 24319(g) and section 24905(c) of title 49,

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United States Code: *Provided further*, That notwithstanding section 24911(f) of title 49, United States Code, amounts made available under this heading in this Act may be used as non-Federal share for Northeast Corridor projects selected for award under such section after the date of enactment of this Act: *Provided further*, That the Secretary may retain up to one half of 1 percent of the amounts made available under both this heading in this Act and the "National Network Grants to the National Railroad Passenger Corporation" heading in this Act to fund the costs of oversight of Amtrak, as authorized by section 22101(c) of division B of this Act: *Provided further*, That in addition to the oversight funds authorized under section 22101(c) of division B of this Act, the Secretary may retain up to $5,000,000 of the funds made available under this heading in this Act for each fiscal year for the Northeast Corridor Commission established under section 24905 of title 49, United States Code, to facilitate a coordinated and efficient delivery of projects carried out under this heading in this Act: *Provided further*, That amounts made available under this heading in this Act may be transferred to and merged with amounts made available under the heading "National Network Grants to the National Railroad Passenger Corporation" in this Act for the purposes authorized under that heading: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

NATIONAL NETWORK GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "National Network Grants to the National Railroad Passenger Corporation", $16,000,000,000, to remain available until expended, for activities associated with the National Network, as authorized by section 22101(b) of division B of this Act: *Provided*, That $3,200,000,000, to remain available until expended, shall be made available for fiscal year 2022, $3,200,000,000, to remain available until expended, shall be made available for fiscal year 2023, $3,200,000,000, to remain available until expended, shall be made available for fiscal year 2024, $3,200,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $3,200,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That amounts made available under this heading in this Act shall be made available for capital projects for the purpose of eliminating Amtrak's deferred maintenance backlog of rolling stock, facilities, stations and infrastructure, including—

(1) acquiring new passenger rolling stock to replace obsolete passenger equipment used in Amtrak's long-distance and state-supported services, and associated rehabilitation, upgrade, or expansion of facilities used to maintain and store such equipment;

(2) bringing Amtrak-served stations to full compliance with the Americans with Disabilities Act;

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(3) eliminating the backlog of deferred capital work on Amtrak-owned railroad assets not located on the Northeast Corridor; and

(4) projects to eliminate the backlog of obsolete assets associated with Amtrak's national rail passenger transportation system, such as systems for reservations, security, training centers, and technology:

Provided further, That not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall submit to the House and Senate Committees on Appropriations a detailed spend plan, including a list of project locations under the preceding proviso to be funded for fiscal year 2022: *Provided further*, That for each fiscal year through 2026, as part of the annual budget submission of the President under section 1105(a) of title 31, United States Code, the Secretary of Transportation shall submit a detailed spend plan for that fiscal year, including a list of project locations under the third proviso: *Provided further*, That of the amounts made available under this heading in this Act, and in addition to amounts made available for similar purposes under this heading in prior Acts, Amtrak shall use such amounts as necessary for the replacement of single-level passenger cars and associated rehabilitation, upgrade, and expansion of facilities used to maintain and store such passenger cars, and such amounts shall be for its direct costs and in lieu of payments from States for such purposes, notwithstanding section 209 of the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110–432), as amended: *Provided further*, That amounts made available under this heading in this Act shall be in addition to other amounts made available for such purposes, including to enable the Secretary of Transportation to make or amend existing grants to Amtrak for activities associated with the National Network, as authorized by section 22101(b) of division B of this Act: *Provided further*, That in addition to the oversight funds authorized under section 22101(c) of division B of this Act, the Secretary may retain up to $3,000,000 of the funds made available under this heading in this Act for each fiscal year for the State-Supported Route Committee established under section 24712(a) of title 49, United States Code: *Provided further*, That of the funds made available under this heading in this Act, the Secretary may retain up to $3,000,000 for each fiscal year for interstate rail compact grants, as authorized by section 22910 of title 49, United States Code: *Provided further*, That of the funds made available under this heading in this Act, not less than $50,000,000 for each fiscal year shall be used to make grants, as authorized under section 22908 of title 49 United States Code consistent with the requirements of that section: *Provided further*, That of the amounts made available under this heading in this Act, such sums as are necessary, shall be available for purposes authorized in section 22214 of division B of this Act: *Provided further*, That amounts made available under this heading in this Act may be transferred to and merged with amounts made available under the heading "Northeast Corridor Grants to the National Railroad Passenger Corporation" in this Act for the purposes authorized under that heading: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year

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2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

RAILROAD CROSSING ELIMINATION PROGRAM

For an additional amount for "Railroad Crossing Elimination Program", $3,000,000,000, to remain available until expended, for competitive grants, as authorized under section 22909 of title 49, United States Code: *Provided*, That $600,000,000, to remain available until expended, shall be made available for fiscal year 2022, $600,000,000, to remain available until expended, shall be made available for fiscal year 2023, $600,000,000, to remain available until expended, shall be made available for fiscal year 2024, $600,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $600,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That the Secretary may withhold up to 2 percent of the amounts provided under this heading in this Act for the costs of award and project management oversight of grants carried out under section 22909 of title 49, United States Code: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

FEDERAL-STATE PARTNERSHIP FOR INTERCITY PASSENGER RAIL GRANTS

For an additional amount for "Federal-State Partnership for Intercity Passenger Rail Grants", $36,000,000,000, to remain available until expended, for grants, as authorized section 24911 of title 49, United States Code: *Provided*, That $7,200,000,000, to remain available until expended, shall be made available for fiscal year 2022, $7,200,000,000, to remain available until expended, shall be made available for fiscal year 2023, $7,200,000,000, to remain available until expended, shall be made available for fiscal year 2024, $7,200,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $7,200,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That, notwithstanding subsection 24911(d)(3) of title 49, United States Code, not more than $24,000,000,000 of the amounts made available under this heading in this Act for fiscal years 2022 through 2026 shall be for projects for the Northeast Corridor: *Provided further*, That amounts made available under the heading "Northeast Corridor Grants to the National Railroad Passenger Corporation" in this Act may be used as non-Federal share for Northeast Corridor projects selected for award under section 24911 of title 49, United States Code, after the date of enactment of this Act, notwithstanding subsection 24911(f) of such title: *Provided further*, That the Secretary may withhold up to 2 percent of the amount provided under this heading in this Act in each fiscal year for the costs of award and project management oversight of grants carried out under section 24911 of title 49, United States Code: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018,

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and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

ADMINISTRATIVE PROVISIONS—FEDERAL RAILROAD ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

SEC. 802. Amounts made available to the Secretary of Transportation or to the Federal Railroad Administration in this title in this Act for the costs of award, administration, and project management oversight of financial assistance under the programs that are administered by the Federal Railroad Administration may be transferred to a "Financial Assistance Oversight and Technical Assistance" account, to remain available until expended, for the necessary expenses to support the award, administration, project management oversight, and technical assistance of programs administered by the Federal Railroad Administration under this Act: *Provided*, That one-quarter of one percent of the amounts transferred pursuant to the authority in this section in each of fiscal years 2022 through 2026 shall be transferred to the Office of Inspector General of the Department of Transportation for oversight of funding provided to the Department of Transportation in this title in this Act: *Provided further*, That one-quarter of one percent of the amounts transferred pursuant to the authority in this section in each of fiscal years 2022 through 2026 shall be transferred to the National Railroad Passenger Corporation Office of Inspector General for oversight of funding provided to the National Railroad Passenger Corporation in this title in this Act.

FEDERAL TRANSIT ADMINISTRATION

TRANSIT INFRASTRUCTURE GRANTS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Transit Infrastructure Grants", $10,250,000,000, to remain available until expended: *Provided*, That $2,050,000,000, to remain available until expended, shall be made available for fiscal year 2022, $2,050,000,000, to remain available until expended, shall be made available for fiscal year 2023, $2,050,000,000, to remain available until expended, shall be made available for fiscal year 2024, $2,050,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $2,050,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That the funds made available under this heading in this Act shall be derived from the general fund of the Treasury, shall be in addition to any other amounts made available for such purpose, and shall not affect the distribution of funds provided in any Act making annual appropriations: *Provided further*, That the funds made available under this heading in this Act shall not be subject to any limitation on obligations for the Federal Public Transportation Assistance Program set forth in any Act making annual appropriations: *Provided further*, That, of the amount provided under this heading in this Act, the following amounts shall be for the following purposes in equal amounts for each of fiscal years 2022 through 2026—

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(1) $4,750,000,000 shall be to carry out the state of good repair grants under section 5337(c) and (d) of title 49, United States Code;

(2) $5,250,000,000 shall be to carry out the low or no emission grants under section 5339(c) of title 49, United States Code; and

(3) $250,000,000 shall be to carry out the formula grants for the enhanced mobility of seniors and individuals with disabilities as authorized under section 5310 of title 49, United States Code:

Provided further, That not more than two percent of the funds made available under this heading in this Act shall be available for administrative and oversight expenses as authorized under section 5334 and section 5338(c) of title 49, United States Code, and shall be in addition to any other appropriations for such purpose: *Provided further*, That one-half of one percent of the amounts in the preceding proviso shall be transferred to the Office of Inspector General of the Department of Transportation for oversight of funding provided to the Department of Transportation in this title in this Act: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

CAPITAL INVESTMENT GRANTS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Capital Investment Grants", $8,000,000,000, to remain available until expended: *Provided*, That $1,600,000,000, to remain available until expended, shall be made available for fiscal year 2022, $1,600,000,000, to remain available until expended, shall be made available for fiscal year 2023, $1,600,000,000, to remain available until expended, shall be made available for fiscal year 2024, $1,600,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $1,600,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That not more than 55 percent of the funds made available under this heading in this Act in each fiscal year may be available for projects authorized under section 5309(d) of title 49, United States Code: *Provided further*, That not more than 20 percent of the funds made available under this heading in this Act in each fiscal year may be available for projects authorized under section 5309(e) of title 49, United States Code: *Provided further*, That not more than 15 percent of the funds made available under this heading in this Act in each fiscal year may be available for projects authorized under section 5309(h) of title 49, United States Code: *Provided further*, That not more than 10 percent of the funds made available under this heading in this Act in each fiscal year may be available for projects authorized under section 3005(b) of the Fixing America's Surface Transportation Act: *Provided further*, That the Secretary may adjust the percentage limitations in any of the preceding four provisos by up to 5 percent in each fiscal year for which funds are made available under this heading in this Act only

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when there are unobligated carry over balances from funds provided for section 5309(d), section 5309(e), or section 5309(h) of title 49, United States Code, or section 3005(b) of the Fixing America's Transportation Act that are equal to or greater than amounts provided under this heading in this Act: *Provided further*, That for each fiscal year through 2026, as part of the annual budget submission of the President under section 1105(a) of title 31, United States Code, the Secretary of Transportation shall submit a list of potential projects eligible for the funds made available under this heading in this Act for that fiscal year, including project locations and proposed funding amounts consistent with the projects Full Funding Grant Agreement annual funding profile where applicable: *Provided further*, That funds allocated to any project during fiscal years 2015 or 2017 pursuant to section 5309 of title 49, United States Code, shall remain allocated to that project through fiscal year 2023: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

ALL STATIONS ACCESSIBILITY PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "All Stations Accessibility Program", $1,750,000,000, to remain available until expended, for the Secretary of Transportation to make competitive grants to assist eligible entities in financing capital projects to upgrade the accessibility of legacy rail fixed guideway public transportation systems for persons with disabilities, including those who use wheelchairs, by increasing the number of existing (as of the date of enactment of this Act) stations or facilities for passenger use that meet or exceed the new construction standards of title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.): *Provided*, That $350,000,000, to remain available until expended, shall be made available for fiscal year 2022, $350,000,000, to remain available until expended, shall be made available for fiscal year 2023, $350,000,000, to remain available until expended, shall be made available for fiscal year 2024, $350,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $350,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That the funds made available under this heading in this Act shall be derived from the general fund of the Treasury: *Provided further*, That eligible entities under this heading in this Act shall include a State or local government authority: *Provided further*, That an eligible entity may use a grant awarded under this heading in this Act: (1) for a project to repair, improve, modify, retrofit, or relocate infrastructure of stations or facilities for passenger use, including load-bearing members that are an essential part of the structural frame; or (2) to develop or modify a plan for pursuing public transportation accessibility projects, assessments of accessibility, or assessments of planned modifications to stations or facilities for passenger use: *Provided further*, That eligible entities are

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encouraged to consult with appropriate stakeholders and the surrounding community to ensure accessibility for individuals with disabilities, including accessibility for individuals with physical disabilities, including those who use wheelchairs, accessibility for individuals with sensory disabilities, and accessibility for individuals with intellectual or developmental disabilities: *Provided further*, That all projects shall at least meet the new construction standards of title II of the Americans with Disabilities Act of 1990: *Provided further*, That eligible costs for a project funded with a grant awarded under this heading in this Act shall be limited to the costs associated with carrying out the purpose described in the preceding proviso: *Provided further*, That an eligible entity may not use a grant awarded under this heading in this Act to upgrade a station or facility for passenger use that is accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, consistent with current (as of the date of the upgrade) new construction standards under title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.): *Provided further*, That a grant for a project made with amounts made available under this heading in this Act shall be for 80 percent of the net project cost: *Provided further*, That the total Federal financial assistance available under chapter 53 of title 49, United States Code, for an eligible entity that receives a grant awarded under this heading in this Act may not exceed 80 percent: *Provided further*, That the recipient of a grant made with amounts made available under this heading in this Act may provide additional local matching amounts: *Provided further*, That not more than two percent of the funds made available under this heading in this Act shall be available for administrative and oversight expenses as authorized under section 5334 and section 5338(c) of title 49, United States Code, and shall be in addition to any other appropriations for such purpose: *Provided further*, That one-half of one percent of the of the amounts in the preceding proviso shall be transferred to the Office of Inspector General of the Department of Transportation for oversight of funding provided to the Department of Transportation in this title in this Act: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

ELECTRIC OR LOW-EMITTING FERRY PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For competitive grants for electric or low-emitting ferry pilot program grants as authorized under section 71102 of division G of this Act, $250,000,000, to remain available until expended: *Provided*, That $50,000,000, to remain available until expended, shall be made available for fiscal year 2022, $50,000,000, to remain available until expended, shall be made available for fiscal year 2023, $50,000,000, to remain available until expended, shall be made available for fiscal year 2024, $50,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $50,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That amounts made

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available under this heading in this Act shall be derived from the general fund of the Treasury: *Provided further*, That the amounts made available under this heading in this Act shall not be subject to any limitation on obligations for transit programs set forth in any Act making annual appropriations: *Provided further*, That not more than two percent of the funds made available under this heading in this Act shall be available for administrative and oversight expenses as authorized under section 5334 and section 5338(c) of title 49, United States Code, and shall be in addition to any other appropriations for such purpose: *Provided further*, That one-half of one percent of the of the amounts in the preceding proviso shall be transferred to the Office of Inspector General of the Department of Transportation for oversight of funding provided to the Department of Transportation in this title in this Act: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

FERRY SERVICE FOR RURAL COMMUNITIES

(INCLUDING TRANSFER OF FUNDS)

For competitive grants to States for eligible essential ferry service as authorized under section 71103 of division G of this Act, $1,000,000,000, to remain available until expended: *Provided*, That $200,000,000, to remain available until expended, shall be made available for fiscal year 2022, $200,000,000, to remain available until expended, shall be made available for fiscal year 2023, $200,000,000, to remain available until expended, shall be made available for fiscal year 2024, $200,000,000, to remain available until expended, shall be made available for fiscal year 2025, and $200,000,000, to remain available until expended, shall be made available for fiscal year 2026: *Provided further*, That amounts made available under this heading in this Act shall be derived from the general fund of the Treasury: *Provided further*, That amounts made available under this heading in this Act shall not be subject to any limitation on obligations for the Federal Public Transportation Assistance Program set forth in any Act making annual appropriations: *Provided further*, That not more than two percent of the funds made available under this heading in this Act shall be available for administrative and oversight expenses as authorized under section 5334 and section 5338(c) of title 49, United States Code, and shall be in addition to any other appropriations for such purpose: *Provided further*, That one-half of one percent of the amounts in the preceding proviso shall be transferred to the Office of Inspector General of the Department of Transportation for oversight of funding provided to the Department of Transportation in this title in this Act: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

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MARITIME ADMINISTRATION

OPERATIONS AND TRAINING

For an additional amount for "Operations and Training", $25,000,000, to remain available until September 30, 2032, for the America's Marine Highway Program to make grants for the purposes authorized under sections 55601(b)(1) and (3) of title 46, United States Code: *Provided*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

PORT INFRASTRUCTURE DEVELOPMENT PROGRAM

For an additional amount for "Port Infrastructure Development Program", $2,250,000,000, to remain available until September 30, 2036: *Provided*, That $450,000,000, to remain available until September 30, 2032, shall be made available for fiscal year 2022, $450,000,000, to remain available until September 30, 2033, shall be made available for fiscal year 2023, $450,000,000, to remain available until September 30, 2034, shall be made available for fiscal year 2024, $450,000,000, to remain available until September 30, 2035, shall be made available for fiscal year 2025, and $450,000,000, to remain available until September 30, 2036, shall be made available for fiscal year 2026: *Provided further*, That for the purposes of amounts made available under this heading in this Act and in prior Acts, and in addition to projects already eligible for awards under this heading, eligible projects, as defined under section 50302(c)(3) of title 46, United States Code, shall also include projects that improve the resiliency of ports to address sea-level rise, flooding, extreme weather events, earthquakes, and tsunami inundation, as well as projects that reduce or eliminate port-related criteria pollutant or greenhouse gas emissions, including projects for—

(1) Port electrification or electrification master planning;
(2) Harbor craft or equipment replacements/retrofits;
(3) Development of port or terminal micro-grids;
(4) Providing idling reduction infrastructure;
(5) Purchase of cargo handling equipment and related infrastructure;
(6) Worker training to support electrification technology;
(7) Installation of port bunkering facilities from ocean-going vessels for fuels;
(8) Electric vehicle charge or hydrogen refueling infrastructure for drayage, and medium or heavy duty trucks and locomotives that service the port and related grid upgrades; or
(9) Other related to port activities including charging infrastructure, electric rubber-tired gantry cranes, and anti-idling technologies:

Provided further, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

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PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION

NATURAL GAS DISTRIBUTION INFRASTRUCTURE SAFETY AND MODERNIZATION GRANT PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Natural Gas Distribution Infrastructure Safety and Modernization Grant Program", $1,000,000,000, to remain available until expended for the Secretary of Transportation to make competitive grants for the modernization of natural gas distribution pipelines: *Provided*, That $200,000,000, to remain available until September 30, 2032, shall be made available for fiscal year 2022, $200,000,000, to remain available until September 30, 2033, shall be made available for fiscal year 2023, $200,000,000, to remain available until September 30, 2034, shall be made available for fiscal year 2024, $200,000,000, to remain available until September 30, 2035, shall be made available for fiscal year 2025, and $200,000,000, to remain available until September 30, 2036, shall be made available for fiscal year 2026: *Provided further*, That grants from funds made available under this heading in this Act shall be available to a municipality or community owned utility (not including for-profit entities) to repair, rehabilitate, or replace its natural gas distribution pipeline system or portions thereof or to acquire equipment to (1) reduce incidents and fatalities and (2) avoid economic losses: *Provided further*, That in making grants from funds made available under this heading in this Act, the Secretary shall establish procedures for awarding grants that take into consideration the following: (1) the risk profile of the existing pipeline system operated by the applicant, including the presence of pipe prone to leakage; (2) the potential of the project for creating jobs; (3) the potential for benefiting disadvantaged rural and urban communities; and (4) economic impact or growth: *Provided further*, That the Secretary shall not award more than 12.5 percent of the funds available under this heading to a single municipality or community-owned utility: *Provided further*, That the Secretary shall issue a notice of funding opportunity not later than 180 days after each date upon which funds are made available under the first proviso: *Provided further*, That the Secretary shall make awards not later than 270 days after issuing the notices of funding opportunity required under the preceding proviso: *Provided further*, That not more than 2 percent of the amounts made available in each fiscal year shall be available to pay the administrative costs of carrying out the grant program under this heading in this Act: *Provided further*, That one-half of one percent of the amounts transferred pursuant to the authority in this section in each of fiscal years 2022 through 2026 shall be transferred to the Office of Inspector General of the Department of Transportation for oversight of funding provided to the Department of Transportation in this Act: *Provided further*, That such amount is designated by the Congress as being for an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

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GENERAL PROVISION—DEPARTMENT OF TRANSPORTATION

SEC. 803. Any funds transferred to the Office of Inspector General of the Department of Transportation from amounts made available in this division in this Act shall remain available until expended.

TITLE IX—GENERAL PROVISIONS—THIS DIVISION

SEC. 901. Each amount appropriated or made available by this division is in addition to amounts otherwise appropriated for the fiscal year involved.

SEC. 902. No part of any appropriation contained in this division shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 903. Unless otherwise provided for by this division, the additional amounts appropriated by this division to appropriations accounts for a fiscal year shall be available under the authorities and conditions applicable to such appropriations accounts for that fiscal year.

SEC. 904. Any amount appropriated by this division, designated by the Congress as an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018, and to section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, and transferred pursuant to transfer authorities provided by this division shall retain such designation.

BUDGETARY EFFECTS

SEC. 905. (a) STATUTORY PAYGO SCORECARDS.—The budgetary effects of this division and amounts rescinded in section 90007 of division I that were previously designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay As-You-Go Act of 2010.

(b) SENATE PAYGO SCORECARDS.—The budgetary effects of this division and amounts rescinded in section 90007 of division I that were previously designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 shall not be entered on any PAYGO scorecard maintained for purposes of section 4106 of H. Con. Res. 71 (115th Congress).

(c) CLASSIFICATION OF BUDGETARY EFFECTS.—Notwithstanding Rule 3 of the Budget Scorekeeping Guidelines set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217 and section 250(c)(7) and (c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985, the budgetary effects of this division and amounts rescinded in section 90007 of division I that were previously designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be estimated for purposes of section 251 of such Act and as appropriations for discretionary accounts for purposes of the allocation to the Committee on Appropriations pursuant to section 302(a) of the Congressional Budget Act of 1974

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and section 4112 of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018.

This division may be cited as the "Infrastructure Investments and Jobs Appropriations Act".

DIVISION K—MINORITY BUSINESS DEVELOPMENT

SEC. 100001. SHORT TITLE.

This division may be cited as the "Minority Business Development Act of 2021".

SEC. 100002. DEFINITIONS.

In this division:

(1) AGENCY.—The term "Agency" means the Minority Business Development Agency of the Department of Commerce.

(2) COMMUNITY-BASED ORGANIZATION.—The term "community-based organization" has the meaning given the term in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(3) ELIGIBLE ENTITY.—Except as otherwise expressly provided, the term "eligible entity"—

(A) means—

(i) a private sector entity;

(ii) a public sector entity; or

(iii) a Native entity; and

(B) includes an institution of higher education.

(4) FEDERAL AGENCY.—The term "Federal agency" has the meaning given the term "agency" in section 551 of title 5, United States Code.

(5) FEDERALLY RECOGNIZED AREA OF ECONOMIC DISTRESS.—The term "federally recognized area of economic distress" means—

(A) a HUBZone, as that term is defined in section 31(b) of the Small Business Act (15 U.S.C. 657a(b));

(B) an area that—

(i) has been designated as—

(I) an empowerment zone under section 1391 of the Internal Revenue Code of 1986; or

(II) a Promise Zone by the Secretary of Housing and Urban Development; or

(ii) is a low or moderate income area, as determined by the Department of Housing and Urban Development;

(C) a qualified opportunity zone, as that term is defined in section 1400Z–1 of the Internal Revenue Code of 1986; or

(D) any other political subdivision or unincorporated area of a State determined by the Under Secretary to be an area of economic distress.

(6) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(7) MBDA BUSINESS CENTER.—The term "MBDA Business Center" means a business center that—

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(A) is established by the Agency; and

(B) provides technical business assistance to minority business enterprises consistent with the requirements of this division.

(8) MBDA BUSINESS CENTER AGREEMENT.—The term "MBDA Business Center agreement" means a legal instrument—

(A) reflecting a relationship between the Agency and the recipient of a Federal assistance award that is the subject of the instrument; and

(B) that establishes the terms by which the recipient described in subparagraph (A) shall operate an MBDA Business Center.

(9) MINORITY BUSINESS ENTERPRISE.—

(A) IN GENERAL.—The term "minority business enterprise" means a business enterprise—

(i) that is not less than 51 percent-owned by 1 or more socially or economically disadvantaged individuals; and

(ii) the management and daily business operations of which are controlled by 1 or more socially or economically disadvantaged individuals.

(B) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) may be construed to exclude a business enterprise from qualifying as a "minority business enterprise" under that subparagraph because of—

(i) the status of the business enterprise as a for-profit or not-for-profit enterprise; or

(ii) the annual revenue of the business enterprise.

(10) NATIVE ENTITY.—The term "Native entity" means—

(A) a Tribal Government;

(B) an Alaska Native village or Regional or Village Corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

(C) a Native Hawaiian organization, as that term is defined in section 6207 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7517);

(D) the Department of Hawaiian Home Lands; and

(E) the Office of Hawaiian Affairs.

(11) PRIVATE SECTOR ENTITY.—The term "private sector entity"—

(A) means an entity that is not a public sector entity; and

(B) does not include—

(i) the Federal Government;

(ii) any Federal agency; or

(iii) any instrumentality of the Federal Government.

(12) PUBLIC SECTOR ENTITY.—The term "public sector entity" means—

(A) a State;

(B) an agency of a State;

(C) a political subdivision of a State;

(D) an agency of a political subdivision of a State; or

(E) a Native entity.

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(13) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

(14) SOCIALLY OR ECONOMICALLY DISADVANTAGED BUSINESS CONCERN.—The term "socially or economically disadvantaged business concern" means a for-profit business enterprise—

(A)(i) that is not less than 51 percent owned by 1 or more socially or economically disadvantaged individuals; or

(ii) that is socially or economically disadvantaged; or

(B) the management and daily business operations of which are controlled by 1 or more socially or economically disadvantaged individuals.

(15) SOCIALLY OR ECONOMICALLY DISADVANTAGED INDIVIDUAL.—

(A) IN GENERAL.—The term "socially or economically disadvantaged individual" means an individual who has been subjected to racial or ethnic prejudice or cultural bias (or the ability of whom to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities, as compared to others in the same line of business and competitive market area) because of the identity of the individual as a member of a group, without regard to any individual quality of the individual that is unrelated to that identity.

(B) PRESUMPTION.—In carrying out this division, the Under Secretary shall presume that the term "socially or economically disadvantaged individual" includes any individual who is—

(i) Black or African American;

(ii) Hispanic or Latino;

(iii) American Indian or Alaska Native;

(iv) Asian;

(v) Native Hawaiian or other Pacific Islander; or

(vi) a member of a group that the Agency determines under part 1400 of title 15, Code of Federal Regulations, as in effect on November 23, 1984, is a socially disadvantaged group eligible to receive assistance.

(16) SPECIALTY CENTER.—The term "specialty center" means an MBDA Business Center that provides specialty services focusing on specific business needs, including assistance relating to—

(A) capital access;

(B) Federal procurement;

(C) entrepreneurship;

(D) technology transfer; or

(E) any other area determined necessary or appropriate based on the priorities of the Agency.

(17) STATE.—The term "State" means—

(A) each of the States of the United States;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico;

(D) the United States Virgin Islands;

(E) Guam;

(F) American Samoa;

(G) the Commonwealth of the Northern Mariana Islands; and

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(H) each Tribal Government.

(18) TRIBAL GOVERNMENT.—The term "Tribal Government" means the recognized governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list published most recently as of the date of enactment of this division pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).

(19) UNDER SECRETARY.—The term "Under Secretary" means the Under Secretary of Commerce for Minority Business Development, who is appointed as described in section _____3(b) to administer this division.

SEC. 100003. MINORITY BUSINESS DEVELOPMENT AGENCY.

(a) IN GENERAL.—There is within the Department of Commerce the Minority Business Development Agency.

(b) UNDER SECRETARY.—

(1) APPOINTMENT AND DUTIES.—The Agency shall be headed by the Under Secretary of Commerce for Minority Business Development, who shall—

(A) be appointed by the President, by and with the advice and consent of the Senate;

(B) except as otherwise expressly provided, be responsible for the administration of this division; and

(C) report directly to the Secretary.

(2) COMPENSATION.—

(A) IN GENERAL.—The Under Secretary shall be compensated at an annual rate of basic pay prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(B) TECHNICAL AND CONFORMING AMENDMENT.—Section 5314 of title 5, United States Code, is amended by striking "and Under Secretary of Commerce for Travel and Tourism" and inserting "Under Secretary of Commerce for Travel and Tourism, and Under Secretary of Commerce for Minority Business Development".

(3) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Director of the Agency shall be deemed to be a reference to the Under Secretary.

(c) REPORT TO CONGRESS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes—

(1) the organizational structure of the Agency;

(2) the organizational position of the Agency within the Department of Commerce; and

(3) a description of how the Agency shall function in relation to the operations carried out by each other component of the Department of Commerce.

(d) OFFICE OF BUSINESS CENTERS.—

(1) ESTABLISHMENT.—There is established within the Agency the Office of Business Centers.

(2) DIRECTOR.—The Office of Business Centers shall be administered by a Director, who shall be appointed by the Under Secretary.

(e) OFFICES OF THE AGENCY.—

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(1) IN GENERAL.—In addition to the regional offices that the Under Secretary is required to establish under paragraph (2), the Under Secretary shall establish such other offices within the Agency as are necessary to carry out this division.

(2) REGIONAL OFFICES.—

(A) IN GENERAL.—In order to carry out this division, the Under Secretary shall establish a regional office of the Agency for each of the regions of the United States, as determined by the Under Secretary.

(B) DUTIES.—Each regional office established under subparagraph (A) shall expand the reach of the Agency and enable the Federal Government to better serve the needs of minority business enterprises in the region served by the office, including by—

(i) understanding and participating in the business environment of that region;

(ii) working with—

(I) MBDA Business Centers that are located in that region;

(II) resource and lending partners of other appropriate Federal agencies that are located in that region; and

(III) Federal, State, and local procurement offices that are located in that region;

(iii) being aware of business retention or expansion programs that are specific to that region;

(iv) seeking out opportunities to collaborate with regional public and private programs that focus on minority business enterprises; and

(v) promoting business continuity and preparedness.

TITLE I—EXISTING INITIATIVES

Subtitle A—Market Development, Research, and Information

SEC. 100101. PRIVATE SECTOR DEVELOPMENT.

The Under Secretary shall, whenever the Under Secretary determines such action is necessary or appropriate—

(1) provide Federal assistance to minority business enterprises operating in domestic and foreign markets by making available to those business enterprises, either directly or in cooperation with private sector entities, including community-based organizations and national nonprofit organizations—

(A) resources relating to management;

(B) technological and technical assistance;

(C) financial, legal, and marketing services; and

(D) services relating to workforce development;

(2) encourage minority business enterprises to establish joint ventures and projects—

(A) with other minority business enterprises; or

(B) in cooperation with public sector entities or private sector entities, including community-based organizations and national nonprofit organizations, to increase the share

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of any market activity being performed by minority business enterprises; and

(3) facilitate the efforts of private sector entities and Federal agencies to advance the growth of minority business enterprises.

SEC. 100102. PUBLIC SECTOR DEVELOPMENT.

The Under Secretary shall, whenever the Under Secretary determines such action is necessary or appropriate—

(1) consult and cooperate with public sector entities for the purpose of leveraging resources available in the jurisdictions of those public sector entities to promote the position of minority business enterprises in the local economies of those public sector entities, including by assisting public sector entities to establish or enhance—

(A) programs to procure goods and services through minority business enterprises and goals for that procurement;

(B) programs offering assistance relating to—

(i) management;

(ii) technology;

(iii) law;

(iv) financing, including accounting;

(v) marketing; and

(vi) workforce development; and

(C) informational programs designed to inform minority business enterprises located in the jurisdictions of those public sector entities about the availability of programs described in this section;

(2) meet with leaders and officials of public sector entities for the purpose of recommending and promoting local administrative and legislative initiatives needed to advance the position of minority business enterprises in the local economies of those public sector entities; and

(3) facilitate the efforts of public sector entities and Federal agencies to advance the growth of minority business enterprises.

SEC. 100103. RESEARCH AND INFORMATION.

(a) IN GENERAL.—In order to achieve the purposes of this division, the Under Secretary—

(1) shall—

(A) collect and analyze data, including data relating to the causes of the success or failure of minority business enterprises;

(B) conduct research, studies, and surveys of—

(i) economic conditions generally in the United States; and

(ii) how the conditions described in clause (i) particularly affect the development of minority business enterprises; and

(C) provide outreach, educational services, and technical assistance in, at a minimum, the 5 most commonly spoken languages in the United States to ensure that limited English proficient individuals receive culturally and linguistically appropriate access to the services and information provided by the Agency; and

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(2) may perform an evaluation of programs carried out by the Under Secretary that are designed to assist the development of minority business enterprises.

(b) INFORMATION CLEARINGHOUSE.—The Under Secretary shall—

(1) establish and maintain an information clearinghouse for the collection and dissemination to relevant parties (including business owners and researchers) of demographic, economic, financial, managerial, and technical data relating to minority business enterprises; and

(2) take such steps as the Under Secretary may determine to be necessary and desirable to—

(A) search for, collect, classify, coordinate, integrate, record, and catalog the data described in paragraph (1); and

(B) in a manner that is consistent with section 552a of title 5, United States Code, protect the privacy of the minority business enterprises to which the data described in paragraph (1) relates.

Subtitle B—Minority Business Development Agency Business Center Program

SEC. 100111. DEFINITION.

In this subtitle, the term "MBDA Business Center Program" means the program established under section _____113.

SEC. 100112. PURPOSE.

The purpose of the MBDA Business Center Program shall be to create a national network of public-private partnerships that—

(1) assist minority business enterprises in—

(A) accessing capital, contracts, and grants; and

(B) creating and maintaining jobs;

(2) provide counseling and mentoring to minority business enterprises; and

(3) facilitate the growth of minority business enterprises by promoting trade.

SEC. 100113. ESTABLISHMENT.

(a) IN GENERAL.—There is established in the Agency a program—

(1) that shall be known as the MBDA Business Center Program;

(2) that shall be separate and distinct from the efforts of the Under Secretary under section _____101; and

(3) under which the Under Secretary shall make Federal assistance awards to eligible entities to operate MBDA Business Centers, which shall, in accordance with section _____114, provide technical assistance and business development services, or specialty services, to minority business enterprises.

(b) COVERAGE.—The Under Secretary shall take all necessary actions to ensure that the MBDA Business Center Program, in accordance with section _____114, offers the services described in subsection (a)(3) in all regions of the United States.

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SEC. 100114. GRANTS AND COOPERATIVE AGREEMENTS.

(a) REQUIREMENTS.—An MBDA Business Center (referred to in this subtitle as a "Center"), with respect to the Federal financial assistance award made to operate the Center under the MBDA Business Center Program—

(1) shall—

(A) provide to minority business enterprises programs and services determined to be appropriate by the Under Secretary, which may include—

(i) referral services to meet the needs of minority business enterprises; and

(ii) programs and services to accomplish the goals described in section _____101(1);

(B) develop, cultivate, and maintain a network of strategic partnerships with organizations that foster access by minority business enterprises to economic markets, capital, or contracts;

(C) continue to upgrade and modify the services provided by the Center, as necessary, in order to meet the changing and evolving needs of the business community;

(D) establish or continue a referral relationship with not less than 1 community-based organization; and

(E) collaborate with other Centers; and

(2) in providing programs and services under the applicable MBDA Business Center agreement, may—

(A) operate on a fee-for-service basis; or

(B) generate income through the collection of—

(i) client fees;

(ii) membership fees; and

(iii) any other appropriate fees proposed by the Center in the application submitted by the Center under subsection (e).

(b) TERM.—Subject to subsection (g)(3), the term of an MBDA Business Center agreement shall be not less than 3 years.

(c) FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—The amount of financial assistance provided by the Under Secretary under an MBDA Business Center agreement shall be not less than $250,000 for the term of the agreement.

(2) MATCHING REQUIREMENT.—

(A) IN GENERAL.—A Center shall match not less than ⅓ of the amount of the financial assistance awarded to the Center under the terms of the applicable MBDA Business Center agreement, unless the Under Secretary determines that a waiver of that requirement is necessary after a demonstration by the Center of a substantial need for that waiver.

(B) FORM OF FUNDS.—A Center may meet the matching requirement under subparagraph (A) by using—

(i) cash or in-kind contributions, without regard to whether the contribution is made by a third party; or

(ii) Federal funds received from other Federal programs.

(3) USE OF FINANCIAL ASSISTANCE AND PROGRAM INCOME.—A Center shall use—

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(A) all financial assistance awarded to the Center under the applicable MBDA Business Center agreement to carry out subsection (a); and

(B) all income that the Center generates in carrying out subsection (a)—

(i) to meet the matching requirement under paragraph (2) of this subsection; and

(ii) if the Center meets the matching requirement under paragraph (2) of this subsection, to carry out subsection (a).

(d) CRITERIA FOR SELECTION.—The Under Secretary shall—

(1) establish criteria that—

(A) the Under Secretary shall use in determining whether to enter into an MBDA Business Center agreement with an eligible entity; and

(B) may include criteria relating to whether an eligible entity is located in—

(i) an area, the population of which is composed of not less than 51 percent socially or economically disadvantaged individuals, as determined in accordance with data collected by the Bureau of the Census;

(ii) a federally recognized area of economic distress; or

(iii) a State that is underserved with respect to the MBDA Business Center Program, as defined by the Under Secretary; and

(2) make the criteria and standards established under paragraph (1) publicly available, including—

(A) on the website of the Agency; and

(B) in each Notice of Funding Opportunity soliciting MBDA Business Center agreements.

(e) APPLICATIONS.—An eligible entity desiring to enter into an MBDA Business Center agreement shall submit to the Under Secretary an application that includes—

(1) a statement of—

(A) how the eligible entity will carry out subsection (a); and

(B) any experience or plans of the eligible entity with respect to—

(i) assisting minority business enterprises to—

(I) obtain—

(aa) large-scale contracts, grants, or procurements;

(bb) financing; or

(cc) legal assistance;

(II) access established supply chains; and

(III) engage in—

(aa) joint ventures, teaming arrangements, and mergers and acquisitions; or

(bb) large-scale transactions in global markets;

(ii) supporting minority business enterprises in increasing the size of the workforces of those enterprises, including, with respect to a minority business enterprise that does not have employees, aiding the minority business enterprise in becoming an enterprise that has employees; and

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(iii) advocating for minority business enterprises; and

(2) the budget and corresponding budget narrative that the eligible entity will use in carrying out subsection (a) during the term of the applicable MBDA Business Center agreement.

(f) NOTIFICATION.—If the Under Secretary grants an application of an eligible entity submitted under subsection (e), the Under Secretary shall notify the eligible entity that the application has been granted not later than 150 days after the last day on which an application may be submitted under that subsection.

(g) PROGRAM EXAMINATION; ACCREDITATION; EXTENSIONS.—

(1) EXAMINATION.—Not later than 180 days after the date of enactment of this Act, and biennially thereafter, the Under Secretary shall conduct a programmatic financial examination of each Center.

(2) ACCREDITATION.—The Under Secretary may provide financial support, by contract or otherwise, to an association, not less than 51 percent of the members of which are Centers, to—

(A) pursue matters of common concern with respect to Centers; and

(B) develop an accreditation program with respect to Centers.

(3) EXTENSIONS.—

(A) IN GENERAL.—The Under Secretary may extend the term under subsection (b) of an MBDA Business Center agreement to which a Center is a party, if the Center consents to the extension.

(B) FINANCIAL ASSISTANCE.—If the Under Secretary extends the term of an MBDA Business Center agreement under paragraph (1), the Under Secretary shall, in the same manner and amount in which financial assistance was provided during the initial term of the agreement, provide financial assistance under the agreement during the extended term of the agreement.

(h) MBDA INVOLVEMENT.—The Under Secretary may take actions to ensure that the Agency is substantially involved in the activities of Centers in carrying out subsection (a), including by—

(1) providing to each Center training relating to the MBDA Business Center Program;

(2) requiring that the operator and staff of each Center—

(A) attend—

(i) a conference with the Agency to establish the services and programs that the Center will provide in carrying out the requirements before the date on which the Center begins providing those services and programs; and

(ii) training provided under paragraph (1);

(B) receive necessary guidance relating to carrying out the requirements under subsection (a); and

(C) work in coordination and collaboration with the Under Secretary to carry out the MBDA Business Center Program and other programs of the Agency;

(3) facilitating connections between Centers and—

(A) Federal agencies other than the Agency, as appropriate; and

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(B) other institutions or entities that use Federal resources, such as—

(i) small business development centers, as that term is defined in section 3(t) of the Small Business Act (15 U.S.C. 632(t));

(ii) women's business centers described in section 29 of the Small Business Act (15 U.S.C. 656);

(iii) eligible entities, as that term is defined in section 2411 of title 10, United States Code, that provide services under the program carried out under chapter 142 of that title; and

(iv) entities participating in the Hollings Manufacturing Extension Partnership Program established under section 25 of the National Institute of Standards and Technology Act (15 U.S.C. 278k);

(4) monitoring projects carried out by each Center; and

(5) establishing and enforcing administrative and reporting requirements for each Center to carry out subsection (a).

(i) REGULATIONS.—The Under Secretary shall issue and publish regulations that establish minimum standards regarding verification of minority business enterprise status for clients of entities operating under the MBDA Business Center Program.

SEC. 100115. MINIMIZING DISRUPTIONS TO EXISTING MBDA BUSINESS CENTER PROGRAM.

The Under Secretary shall ensure that each Federal assistance award made under the Business Centers program of the Agency, as is in effect on the day before the date of enactment of this Act, is carried out in a manner that, to the greatest extent practicable, prevents disruption of any activity carried out under that award.

SEC. 100116. PUBLICITY.

In carrying out the MBDA Business Center Program, the Under Secretary shall widely publicize the MBDA Business Center Program, including—

(1) on the website of the Agency;

(2) via social media outlets; and

(3) by sharing information relating to the MBDA Business Center Program with community-based organizations, including interpretation groups where necessary, to communicate in the most common languages spoken by the groups served by those organizations.

TITLE II—NEW INITIATIVES TO PROMOTE ECONOMIC RESILIENCY FOR MINORITY BUSINESSES

SEC. 100201. ANNUAL DIVERSE BUSINESS FORUM ON CAPITAL FORMATION.

(a) RESPONSIBILITY OF AGENCY.—Not later than 18 months after the date of enactment of this Act, and annually thereafter, the Under Secretary shall conduct a Government-business forum to review the current status of problems and programs relating to capital formation by minority business enterprises.

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(b) PARTICIPATION IN FORUM PLANNING.—The Under Secretary shall invite the heads of other Federal agencies, such as the Chairman of the Securities and Exchange Commission, the Secretary of the Treasury, and the Chairman of the Board of Governors of the Federal Reserve System, organizations representing State securities commissioners, representatives of leading minority chambers of commerce, not less than 1 certified owner of a minority business enterprise, business organizations, and professional organizations concerned with capital formation to participate in the planning of each forum conducted under subsection (a).

(c) PREPARATION OF STATEMENTS AND REPORTS.—

(1) REQUESTS.—The Under Secretary may request that any head of a Federal agency, department, or organization, including those described in subsection (b), or any other group or individual, prepare a statement or report to be delivered at any forum conducted under subsection (a).

(2) COOPERATION.—Any head of a Federal agency, department, or organization who receives a request under paragraph (1) shall, to the greatest extent practicable, cooperate with the Under Secretary to fulfill that request.

(d) TRANSMITTAL OF PROCEEDINGS AND FINDINGS.—The Under Secretary shall—

(1) prepare a summary of the proceedings of each forum conducted under subsection (a), which shall include the findings and recommendations of the forum; and

(2) transmit the summary described in paragraph (1) with respect to each forum conducted under subsection (a) to—

(A) the participants in the forum;

(B) Congress; and

(C) the public, through a publicly available website.

(e) REVIEW OF FINDINGS AND RECOMMENDATIONS; PUBLIC STATEMENTS.—

(1) IN GENERAL.—A Federal agency to which a finding or recommendation described in subsection (d)(1) relates shall—

(A) review that finding or recommendation; and

(B) promptly after the finding or recommendation is transmitted under subsection (d)(2)(C), issue a public statement—

(i) assessing the finding or recommendation; and

(ii) disclosing the action, if any, the Federal agency intends to take with respect to the finding or recommendation.

(2) JOINT STATEMENT PERMITTED.—If a finding or recommendation described in subsection (d)(1) relates to more than 1 Federal agency, the applicable Federal agencies may, for the purposes of the public statement required under paragraph (1)(B), issue a joint statement.

SEC. 100202. AGENCY STUDY ON ALTERNATIVE FINANCING SOLUTIONS.

(a) PURPOSE.—The purpose of this section is to provide information relating to alternative financing solutions to minority business enterprises, as those business enterprises are more likely to struggle in accessing, particularly at affordable rates, traditional sources of capital.

(b) STUDY AND REPORT.—Not later than 1 year after the date of enactment of this Act, the Under Secretary shall—

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(1) conduct a study on opportunities for providing alternative financing solutions to minority business enterprises; and

(2) submit to Congress, and publish on the website of the Agency, a report describing the findings of the study carried out under paragraph (1).

SEC. 100203. EDUCATIONAL DEVELOPMENT RELATING TO MANAGEMENT AND ENTREPRENEURSHIP.

(a) DUTIES.—The Under Secretary shall, whenever the Under Secretary determines such action is necessary or appropriate—

(1) promote the education and training of socially or economically disadvantaged individuals in subjects directly relating to business administration and management;

(2) encourage institutions of higher education, leaders in business and industry, and other public sector entities and private sector entities, particularly minority business enterprises, to—

(A) develop programs to offer scholarships and fellowships, apprenticeships, and internships relating to business to socially or economically disadvantaged individuals; and

(B) sponsor seminars, conferences, and similar activities relating to business for the benefit of socially or economically disadvantaged individuals;

(3) stimulate and accelerate curriculum design and improvement in support of development of minority business enterprises; and

(4) encourage and assist private institutions and organizations and public sector entities to undertake activities similar to the activities described in paragraphs (1), (2), and (3).

(b) PARREN J. MITCHELL ENTREPRENEURSHIP EDUCATION GRANTS.—

(1) DEFINITION.—In this subsection, the term "eligible institution" means an institution of higher education described in any of paragraphs (1) through (7) of section 371(a) of the Higher Education Act of 1965 (20 U.S.C. 1067q(a)).

(2) GRANTS.—The Under Secretary shall award grants to eligible institutions to develop and implement entrepreneurship curricula.

(3) REQUIREMENTS.—An eligible institution to which a grant is awarded under this subsection shall use the grant funds to—

(A) develop a curriculum that includes training in various skill sets needed by contemporary successful entrepreneurs, including—

(i) business management and marketing;
(ii) financial management and accounting;
(iii) market analysis;
(iv) competitive analysis;
(v) innovation;
(vi) strategic and succession planning;
(vii) marketing;
(viii) general management;
(ix) technology and technology adoption;
(x) leadership; and
(xi) human resources; and

(B) implement the curriculum developed under subparagraph (A) at the eligible institution.

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(4) IMPLEMENTATION TIMELINE.—The Under Secretary shall establish and publish a timeline under which an eligible institution to which a grant is awarded under this section shall carry out the requirements under paragraph (3).

(5) REPORTS.—Each year, the Under Secretary shall submit to all applicable committees of Congress, and as part of the annual budget submission of the President under section 1105(a) of title 31, United States Code, a report evaluating the awarding and use of grants under this subsection during the fiscal year immediately preceding the fiscal year in which the report is submitted, which shall include, with respect to the fiscal year covered by the report—

(A) a description of each curriculum developed and implemented under each grant awarded under this section;

(B) the date on which each grant awarded under this section was awarded; and

(C) the number of eligible entities that were recipients of grants awarded under this section.

TITLE III—RURAL MINORITY BUSINESS CENTER PROGRAM

SEC. 100301. DEFINITIONS.

In this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Financial Services of the House of Representatives.

(2) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a minority-serving institution; or

(B) a consortium of institutions of higher education that is led by a minority-serving institution.

(3) MBDA RURAL BUSINESS CENTER.—The term "MBDA Rural Business Center" means an MBDA Business Center that provides technical business assistance to minority business enterprises located in rural areas.

(4) MBDA RURAL BUSINESS CENTER AGREEMENT.—The term "MBDA Rural Business Center agreement" means an MBDA Business Center agreement that establishes the terms by which the recipient of the Federal assistance award that is the subject of the agreement shall operate an MBDA Rural Business Center.

(5) MINORITY-SERVING INSTITUTION.—The term "minority-serving institution" means an institution described in any of paragraphs (1) through (7) of section 371(a) of the Higher Education Act of 1965 (20 U.S.C. 1067q(a)).

(6) RURAL AREA.—The term "rural area" has the meaning given the term in section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)).

(7) RURAL MINORITY BUSINESS ENTERPRISE.—The term "rural minority business enterprise" means a minority business enterprise located in a rural area.

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SEC. 100302. BUSINESS CENTERS.

(a) IN GENERAL.—The Under Secretary may establish MBDA Rural Business Centers.

(b) PARTNERSHIP.—

(1) IN GENERAL.—With respect to an MBDA Rural Business Center established by the Under Secretary, the Under Secretary shall establish the MBDA Rural Business Center in partnership with an eligible entity in accordance with paragraph (2).

(2) MBDA AGREEMENT.—

(A) IN GENERAL.—With respect to each MBDA Rural Business Center established by the Under Secretary, the Under Secretary shall enter into a cooperative agreement with an eligible entity that provides that—

(i) the eligible entity shall provide space, facilities, and staffing for the MBDA Rural Business Center;

(ii) the Under Secretary shall provide funding for, and oversight with respect to, the MBDA Rural Business Center; and

(iii) subject to subparagraph (B), the eligible entity shall match 20 percent of the amount of the funding provided by the Under Secretary under clause (ii), which may be calculated to include the costs of providing the space, facilities, and staffing under clause (i).

(B) LOWER MATCH REQUIREMENT.—Based on the available resources of an eligible entity, the Under Secretary may enter into a cooperative agreement with the eligible entity that provides that—

(i) the eligible entity shall match less than 20 percent of the amount of the funding provided by the Under Secretary under subparagraph (A)(ii); or

(ii) if the Under Secretary makes a determination, upon a demonstration by the eligible entity of substantial need, the eligible entity shall not be required to provide any match with respect to the funding provided by the Under Secretary under subparagraph (A)(ii).

(C) ELIGIBLE FUNDS.—An eligible entity may provide matching funds required under an MBDA Rural Business Center agreement with Federal funds received from other Federal programs.

(3) TERM.—The initial term of an MBDA Rural Business Center agreement shall be not less than 3 years.

(4) EXTENSION.—The Under Secretary and an eligible entity may agree to extend the term of an MBDA Rural Business Center agreement with respect to an MBDA Rural Business Center.

(c) FUNCTIONS.—An MBDA Rural Business Center shall—

(1) primarily serve clients that are—

(A) rural minority business enterprises; or

(B) minority business enterprises that are located more than 50 miles from an MBDA Business Center (other than that MBDA Rural Business Center);

(2) focus on—

(A) issues relating to—

(i) the adoption of broadband internet access service (as defined in section 8.1(b) of title 47, Code of Federal Regulations, or any successor regulation),

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digital literacy skills, and e-commerce by rural minority business enterprises;

(ii) advanced manufacturing;

(iii) the promotion of manufacturing in the United States;

(iv) ways in which rural minority business enterprises can meet gaps in the supply chain of critical supplies and essential goods and services for the United States;

(v) improving the connectivity of rural minority business enterprises through transportation and logistics;

(vi) promoting trade and export opportunities by rural minority business enterprises;

(vii) securing financial capital;

(viii) facilitating entrepreneurship in rural areas; and

(ix) creating jobs in rural areas; and

(B) any other issue relating to the unique challenges faced by rural minority business enterprises; and

(3) provide education, training, and legal, financial, and technical assistance to minority business enterprises.

(d) APPLICATIONS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Under Secretary shall issue a Notice of Funding Opportunity requesting applications from eligible entities that desire to enter into MBDA Rural Business Center agreements.

(2) CRITERIA AND PRIORITY.—In selecting an eligible entity with which to enter into an MBDA Rural Business Center agreement, the Under Secretary shall—

(A) select an eligible entity that demonstrates—

(i) the ability to collaborate with governmental and private sector entities to leverage capabilities of minority business enterprises through public-private partnerships;

(ii) the research and extension capacity to support minority business enterprises;

(iii) knowledge of the community that the eligible entity serves and the ability to conduct effective outreach to that community to advance the goals of an MBDA Rural Business Center;

(iv) the ability to provide innovative business solutions, including access to contracting opportunities, markets, and capital;

(v) the ability to provide services that advance the development of science, technology, engineering, and math jobs within minority business enterprises;

(vi) the ability to leverage resources from within the eligible entity to advance an MBDA Rural Business Center;

(vii) that the mission of the eligible entity aligns with the mission of the Agency;

(viii) the ability to leverage relationships with rural minority business enterprises; and

(ix) a referral relationship with not less than 1 community-based organization; and

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(B) give priority to an eligible entity that—

(i) is located in a State or region that has a significant population of socially or economically disadvantaged individuals;

(ii) has a history of serving socially or economically disadvantaged individuals; or

(iii) in the determination of the Under Secretary, has not received an equitable allocation of land and financial resources under—

(I) the Act of July 2, 1862 (commonly known as the "First Morrill Act") (12 Stat. 503, chapter 130; 7 U.S.C. 301 et seq.); or

(II) the Act of August 30, 1890 (commonly known as the "Second Morrill Act") (26 Stat. 417, chapter 841; 7 U.S.C. 321 et seq.).

(3) CONSIDERATIONS.—In determining whether to enter into an MBDA Rural Business Center agreement with an eligible entity under this section, the Under Secretary shall consider the needs of the eligible entity.

SEC. 100303. REPORT TO CONGRESS.

Not later than 1 year after the date of enactment of this Act, the Under Secretary shall submit to the appropriate congressional committees a report that includes—

(1) a summary of the efforts of the Under Secretary to provide services to minority business enterprises located in States that lack an MBDA Business Center, as of the date of enactment of this Act, and especially in those States that have significant minority populations; and

(2) recommendations for extending the outreach of the Agency to underserved areas.

SEC. 100304. STUDY AND REPORT.

(a) IN GENERAL.—The Under Secretary, in coordination with relevant leadership of the Agency and relevant individuals outside of the Department of Commerce, shall conduct a study that addresses the ways in which minority business enterprises can meet gaps in the supply chain of the United States, with a particular focus on the supply chain of advanced manufacturing and essential goods and services.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Under Secretary shall submit to the appropriate congressional committees a report that includes the results of the study conducted under subsection (a), which shall include recommendations regarding the ways in which minority business enterprises can meet gaps in the supply chain of the United States.

TITLE IV—MINORITY BUSINESS DEVELOPMENT GRANTS

SEC. 100401. GRANTS TO NONPROFIT ORGANIZATIONS THAT SUPPORT MINORITY BUSINESS ENTERPRISES.

(a) DEFINITION.—In this section, the term "covered entity" means a private nonprofit organization that—

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(1) is described in paragraph (3), (4), (5), or (6) of section 501(c) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; and

(2) can demonstrate that a primary activity of the organization is to provide services to minority business enterprises, whether through education, making grants or loans, or other similar activities.

(b) PURPOSE.—The purpose of this section is to make grants to covered entities to help those covered entities continue the necessary work of supporting minority business enterprises.

(c) DESIGNATION OF OFFICE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Under Secretary shall designate an office to make and administer grants under this section.

(2) CONSIDERATIONS.—In designating an office under paragraph (1), the Under Secretary shall ensure that the office designated has adequate staffing to carry out the responsibilities of the office under this section.

(d) APPLICATION.—A covered entity desiring a grant under this section shall submit to the Under Secretary an application at such time, in such manner, and containing such information as the Under Secretary may require.

(e) PRIORITY.—The Under Secretary shall, in carrying out this section, prioritize granting an application submitted by a covered entity that is located in a federally recognized area of economic distress.

(f) USE OF FUNDS.—A covered entity to which a grant is made under this section may use the grant funds to support the development, growth, or retention of minority business enterprises.

(g) PROCEDURES.—The Under Secretary shall establish procedures to—

(1) discourage and prevent waste, fraud, and abuse by applicants for, and recipients of, grants made under this section; and

(2) ensure that grants are made under this section to a diverse array of covered entities, which may include—

(A) covered entities with a national presence;

(B) community-based covered entities;

(C) covered entities with annual budgets below $1,000,000; or

(D) covered entities that principally serve low-income and rural communities.

(h) INSPECTOR GENERAL AUDIT.—Not later than 180 days after the date on which the Under Secretary begins making grants under this section, the Inspector General of the Department of Commerce shall—

(1) conduct an audit of grants made under this section, which shall seek to identify any discrepancies or irregularities with respect to those grants; and

(2) submit to Congress a report regarding the audit conducted under paragraph (1).

(i) UPDATES TO CONGRESS.—Not later than 90 days after the date on which the Under Secretary makes the designation required under subsection (c), and once every 30 days thereafter, the Under Secretary shall submit to Congress a report that contains—

(1) the number of grants made under this section during the period covered by the report; and

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(2) with respect to the grants described in paragraph (1)—

(A) the geographic distribution of those grants by State and county;

(B) if applicable, demographic information with respect to the minority business enterprises served by the covered entities to which the grants were made; and

(C) information regarding the industries of the minority business enterprises served by the covered entities to which the grants were made.

TITLE V—MINORITY BUSINESS ENTERPRISES ADVISORY COUNCIL

SEC. 100501. PURPOSE.

The Under Secretary shall establish the Minority Business Enterprises Advisory Council (referred to in this title as the "Council") to advise and assist the Agency.

SEC. 100502. COMPOSITION AND TERM.

(a) COMPOSITION.—The Council shall be composed of 9 members of the private sector and 1 representative from each of not fewer than 10 Federal agencies that support or otherwise have duties that relate to business formation, including duties relating to labor development, monetary policy, national security, energy, agriculture, transportation, and housing.

(b) CHAIR.—The Under Secretary shall designate 1 of the private sector members of the Council as the Chair of the Council for a 1-year term.

(c) TERM.—The Council shall meet at the request of the Under Secretary and members shall serve for a term of 2 years. Members of the Council may be reappointed.

SEC. 100503. DUTIES.

(a) IN GENERAL.—The Council shall provide advice to the Under Secretary by—

(1) serving as a source of knowledge and information on developments in areas of the economic and social life of the United States that affect socially or economically disadvantaged business concerns;

(2) providing the Under Secretary with information regarding plans, programs, and activities in the public and private sectors that relate to socially or economically disadvantaged business concerns; and

(3) advising the Under Secretary regarding—

(A) any measures to better achieve the objectives of this division; and

(B) problems and matters the Under Secretary refers to the Council.

(b) CAPACITY.—Members of the Council shall not be compensated for service on the Council but may be allowed travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(c) TERMINATION.—Notwithstanding section 14 of the Federal Advisory Committee Act (5 U.S.C. App.), the Council shall terminate on the date that is 5 years after the date of enactment of this Act.

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TITLE VI—FEDERAL COORDINATION OF MINORITY BUSINESS PROGRAMS

SEC. 100601. GENERAL DUTIES.

The Under Secretary may coordinate, as consistent with law, the plans, programs, and operations of the Federal Government that affect, or may contribute to, the establishment, preservation, and strengthening of socially or economically disadvantaged business concerns.

SEC. 100602. PARTICIPATION OF FEDERAL DEPARTMENTS AND AGENCIES.

The Under Secretary shall—

(1) consult with other Federal agencies and departments as appropriate to—

(A) develop policies, comprehensive plans, and specific program goals for the programs carried out under subtitle B of title I and title III;

(B) establish regular performance monitoring and reporting systems to ensure that goals established by the Under Secretary with respect to the implementation of this division are being achieved; and

(C) evaluate the impact of Federal support of socially or economically disadvantaged business concerns in achieving the objectives of this division;

(2) conduct a coordinated review of all proposed Federal training and technical assistance activities in direct support of the programs carried out under subtitle B of title I and title III to ensure consistency with program goals and to avoid duplication; and

(3) convene, for purposes of coordination, meetings of the heads of such Federal agencies and departments, or their designees, the programs and activities of which may affect or contribute to the carrying out of this division.

TITLE VII—ADMINISTRATIVE POWERS OF THE AGENCY; MISCELLANEOUS PROVISIONS

SEC. 100701. ADMINISTRATIVE POWERS.

(a) IN GENERAL.—In carrying out this division, the Under Secretary may—

(1) adopt and use a seal for the Agency, which shall be judicially noticed;

(2) hold hearings, sit and act, and take testimony as the Under Secretary may determine to be necessary or appropriate to carry out this division;

(3) acquire, in any lawful manner, any property that the Under Secretary determines to be necessary or appropriate to carry out this division;

(4) with the consent of another Federal agency, enter into an agreement with that Federal agency to utilize, with or without reimbursement, any service, equipment, personnel, or facility of that Federal agency;

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(5) coordinate with the heads of the Offices of Small and Disadvantaged Business Utilization of Federal agencies;

(6) develop procedures under which the Under Secretary may evaluate the compliance of a recipient of assistance under this Act with the requirements of this Act;

(7) deobligate assistance provided under this Act to a recipient that has demonstrated an insufficient level of performance with respect to the assistance, or has engaged in wasteful or fraudulent spending; and

(8) provide that a recipient of assistance under this Act that has demonstrated an insufficient level of performance with respect to the assistance, or has engaged in wasteful or fraudulent spending, shall be ineligible to receive assistance under this Act for a period determined by the Under Secretary, consistent with the considerations under section 180.865 of title 2, Code of Federal Regulations (or any successor regulation), beginning on the date on which the Under Secretary makes the applicable finding.

(b) USE OF PROPERTY.—

(1) IN GENERAL.—Subject to paragraph (2), in carrying out this division, the Under Secretary may, without cost (except for costs of care and handling), allow any public sector entity, or any recipient nonprofit organization, for the purpose of the development of minority business enterprises, to use any real or tangible personal property acquired by the Agency in carrying out this division.

(2) TERMS, CONDITIONS, RESERVATIONS, AND RESTRICTIONS.—The Under Secretary may impose reasonable terms, conditions, reservations, and restrictions upon the use of any property under paragraph (1).

SEC. 100702. FEDERAL ASSISTANCE.

(a) IN GENERAL.—

(1) PROVISION OF FEDERAL ASSISTANCE.—To carry out sections _____101, _____102, and _____103(a), the Under Secretary may provide Federal assistance to public sector entities and private sector entities in the form of grants or cooperative agreements.

(2) NOTICE.—Not later than 120 days after the date on which amounts are appropriated to carry out this section, the Under Secretary shall, in accordance with subsection (b), broadly publish a statement regarding Federal assistance that will, or may, be provided under paragraph (1) during the fiscal year for which those amounts are appropriated, including—

(A) the actual, or anticipated, amount of Federal assistance that will, or may, be made available;

(B) the types of Federal assistance that will, or may, be made available;

(C) the manner in which Federal assistance will be allocated among public sector entities and private sector entities, as applicable; and

(D) the methodology used by the Under Secretary to make allocations under subparagraph (C).

(3) CONSULTATION.—The Under Secretary shall consult with public sector entities and private sector entities, as applicable, in deciding the amounts and types of Federal assistance to make available under paragraph (1).

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(b) PUBLICITY.—In carrying out this section, the Under Secretary shall broadly publicize all opportunities for Federal assistance available under this section, including through the means required under section _____116.

SEC. 100703. RECORDKEEPING.

(a) IN GENERAL.—Each recipient of assistance under this division shall keep such records as the Under Secretary shall prescribe, including records that fully disclose, with respect to the assistance received by the recipient under this division—

(1) the amount and nature of that assistance;

(2) the disposition by the recipient of the proceeds of that assistance;

(3) the total cost of the undertaking for which the assistance is given or used;

(4) the amount and nature of the portion of the cost of the undertaking described in paragraph (3) that is supplied by a source other than the Agency;

(5) the return on investment, as defined by the Under Secretary; and

(6) any other record that will facilitate an effective audit with respect to the assistance.

(b) ACCESS BY GOVERNMENT OFFICIALS.—The Under Secretary, the Inspector General of the Department of Commerce, and the Comptroller General of the United States, or any duly authorized representative of any such individual, shall have access, for the purpose of audit, investigation, and examination, to any book, document, paper, record, or other material of the Agency or an MBDA Business Center.

SEC. 100704. REVIEW AND REPORT BY COMPTROLLER GENERAL.

Not later than 4 years after the date of enactment of this Act, the Comptroller General of the United States shall—

(1) conduct a thorough review of the programs carried out under this division; and

(2) submit to Congress a detailed report of the findings of the Comptroller General of the United States under the review carried out under paragraph (1), which shall include—

(A) an evaluation of the effectiveness of the programs in achieving the purposes of this division;

(B) a description of any failure by any recipient of assistance under this division to comply with the requirements under this division; and

(C) recommendations for any legislative or administrative action that should be taken to improve the achievement of the purposes of this division.

SEC. 100705. BIANNUAL REPORTS; RECOMMENDATIONS.

(a) BIANNUAL REPORT.—Not later than 1 year after the date of enactment of this Act, and 90 days after the last day of each odd-numbered year thereafter, the Under Secretary shall submit to Congress, and publish on the website of the Agency, a report of each activity of the Agency carried out under this division during the period covered by the report.

(b) RECOMMENDATIONS.—The Under Secretary shall periodically submit to Congress and the President recommendations for legislation or other actions that the Under Secretary determines to be necessary or appropriate to promote the purposes of this division.

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SEC. 100706. SEPARABILITY.

If a provision of this division, or the application of a provision of this division to any person or circumstance, is held by a court of competent jurisdiction to be invalid, that judgment—

(1) shall not affect, impair, or invalidate—

(A) any other provision of this division; or

(B) the application of this division to any other person or circumstance; and

(2) shall be confined in its operation to—

(A) the provision of this division with respect to which the judgment is rendered; or

(B) the application of the provision of this division to each person or circumstance directly involved in the controversy in which the judgment is rendered.

SEC. 100707. EXECUTIVE ORDER 11625.

The powers and duties of the Agency shall be determined—

(1) in accordance with this division and the requirements of this division; and

(2) without regard to Executive Order 11625 (36 Fed. Reg. 19967; relating to prescribing additional arrangements for developing and coordinating a national program for minority business enterprise).

SEC. 100708. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Under Secretary $110,000,000 for each of fiscal years 2021 through 2025 to carry out this division, of which—

(1) a majority shall be used in each such fiscal year to carry out the MBDA Business Center Program under subtitle B of title I, including the component of that program relating to specialty centers; and

(2) $20,000,000 shall be used in each such fiscal year to carry out title III.

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.

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Purpose: To modernize Federal information security management, to amend the Homeland Security Act of 2002 to establish the Cyber Incident Review Office in the Cybersecurity and Infrastructure Security Agency of the Department of Homeland Security, and to make technical corrections to the Homeland Security Act of 2002.

H. R. 4350

To authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT INTENDED TO BE PROPOSED BY MR. PETERS (for himself, Mr. PORTMAN, Mr. WARNER, and Ms. COLLINS and Ms. SINEMA) to the amendment (No. 3867) proposed by Mr. REED

Viz:

At the end, add the following:

DIVISION E—FEDERAL INFORMATION SECURITY MODERNIZATION ACT OF 2021

SEC. 5101. SHORT TITLE.

This division may be cited as the "Federal Information Security Modernization Act of 2021".

SEC. 5102. DEFINITIONS.

In this division, unless otherwise specified:

(1) ADDITIONAL CYBERSECURITY PROCEDURE.—The term "additional cybersecurity procedure" has the meaning given the term in section 3552(b) of title 44, United States Code, as amended by this division.

(2) AGENCY.—The term "agency" has the meaning given the term in section 3502 of title 44, United States Code.

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(3) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate;

(B) the Committee on Oversight and Reform of the House of Representatives; and

(C) the Committee on Homeland Security of the House of Representatives.

(4) DIRECTOR.—The term "Director" means the Director of the Office of Management and Budget.

(5) INCIDENT.—The term "incident" has the meaning given the term in section 3552(b) of title 44, United States Code.

(6) NATIONAL SECURITY SYSTEM.—The term "national security system" has the meaning given the term in section 3552(b) of title 44, United States Code.

(7) PENETRATION TEST.—The term "penetration test" has the meaning given the term in section 3552(b) of title 44, United States Code, as amended by this division.

(8) THREAT HUNTING.—The term "threat hunting" means proactively and iteratively searching for threats to systems that evade detection by automated threat detection systems.

TITLE LI—UPDATES TO FISMA

SEC. 5121. TITLE 44 AMENDMENTS.

(a) Subchapter I Amendments.—Subchapter I of chapter 35 of title 44, United States Code, is amended—

(1) in section 3504—

(A) in subsection (a)(1)(B)—

(i) by striking clause (v) and inserting the following:

"(v) confidentiality, disclosure, and sharing of information;";

(ii) by redesignating clause (vi) as clause (vii); and

(iii) by inserting after clause (v) the following:

"(vi) in consultation with the National Cyber Director and the Director of the Cybersecurity and Infrastructure Security Agency, security of information; and";

(B) in subsection (g), by striking paragraph (1) and inserting the following:

"(1) with respect to information collected or maintained by or for agencies—

"(A) develop and oversee the implementation of policies, principles, standards, and guidelines on privacy, confidentiality, disclosure, and sharing of the information; and

"(B) in consultation with the National Cyber Director and the Director of the Cybersecurity and Infrastructure Security Agency, develop and oversee policies, principles, standards, and guidelines on security of the information; and"; and

(C) in subsection (h)(1)—

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(i) in the matter preceding subparagraph (A)—

(I) by inserting "the Director of the Cybersecurity and Infrastructure Security Agency and the National Cyber Director," before "the Director"; and

(II) by inserting a comma before "and the Administrator"; and

(ii) in subparagraph (A), by inserting "security and" after "information technology";

(2) in section 3505—

(A) in paragraph (3) of the first subsection designated as subsection (c)—

(i) in subparagraph (B)—

(I) by inserting "the Director of the Cybersecurity and Infrastructure Security Agency, the National Cyber Director, and" before "the Comptroller General"; and

(II) by striking "and" at the end;

(ii) in subparagraph (C)(v), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(D) maintained on a continual basis through the use of automation, machine-readable data, and scanning."; and

(B) by striking the second subsection designated as subsection (c);

(3) in section 3506—

(A) in subsection (b)(1)(C), by inserting ", availability" after "integrity"; and

(B) in subsection (h)(3), by inserting "security," after "efficiency,"; and

(4) in section 3513—

(A) by redesignating subsection (c) as subsection (d); and

(B) by inserting after subsection (b) the following:

"(c) Each agency providing a written plan under subsection (b) shall provide any portion of the written plan addressing information security or cybersecurity to the Director of the Cybersecurity and Infrastructure Security Agency.".

(b) Subchapter II Definitions.—

(1) IN GENERAL.—Section 3552(b) of title 44, United States Code, is amended—

(A) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), (6), (9), and (11), respectively;

(B) by inserting before paragraph (2), as so redesignated, the following:

"(1) The term 'additional cybersecurity procedure' means a process, procedure, or other activity that is established in excess of the information security standards promulgated

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under section 11331(b) of title 40 to increase the security and reduce the cybersecurity risk of agency systems.";

(C) by inserting after paragraph (6), as so redesignated, the following:

"(7) The term 'high value asset' means information or an information system that the head of an agency determines so critical to the agency that the loss or corruption of the information or the loss of access to the information system would have a serious impact on the ability of the agency to perform the mission of the agency or conduct business.

"(8) The term 'major incident' has the meaning given the term in guidance issued by the Director under section 3598(a).";

(D) by inserting after paragraph (9), as so redesignated, the following:

"(10) The term 'penetration test' means a specialized type of assessment that—

"(A) is conducted on an information system or a component of an information system; and

"(B) emulates an attack or other exploitation capability of a potential adversary, typically under specific constraints, in order to identify any vulnerabilities of an information system or a component of an information system that could be exploited."; and

(E) by inserting after paragraph (11), as so redesignated, the following:

"(12) The term 'shared service' means a centralized business or mission capability that is provided to multiple organizations within an agency or to multiple agencies.".

(2) CONFORMING AMENDMENTS.—

(A) HOMELAND SECURITY ACT OF 2002.—Section 1001(c)(1)(A) of the Homeland Security Act of 2002 (6 U.S.C. 511(1)(A)) is amended by striking "section 3552(b)(5)" and inserting "section 3552(b)".

(B) TITLE 10.—

(i) SECTION 2222.—Section 2222(i)(8) of title 10, United States Code, is amended by striking "section 3552(b)(6)(A)" and inserting "section 3552(b)(9)(A)".

(ii) SECTION 2223.—Section 2223(c)(3) of title 10, United States Code, is amended by striking "section 3552(b)(6)" and inserting "section 3552(b)".

(iii) SECTION 2315.—Section 2315 of title 10, United States Code, is amended by striking "section 3552(b)(6)" and inserting "section 3552(b)".

(iv) SECTION 2339A.—Section 2339a(e)(5) of title 10, United States Code, is amended by striking "section 3552(b)(6)" and inserting "section 3552(b)".

(C) HIGH-PERFORMANCE COMPUTING ACT OF 1991.—Section 207(a) of the High-Performance Computing Act of 1991 (15 U.S.C. 5527(a)) is amended by striking "section 3552(b)(6)(A)(i)" and inserting "section 3552(b)(9)(A)(i)".

(D) INTERNET OF THINGS CYBERSECURITY IMPROVEMENT ACT OF 2020.—Section 3(5) of the Internet of Things Cybersecurity Improvement Act of 2020 (15 U.S.C. 278g–3a)

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is amended by striking "section 3552(b)(6)" and inserting "section 3552(b)".

(E) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2013.—Section 933(e)(1)(B) of the National Defense Authorization Act for Fiscal Year 2013 (10 U.S.C. 2224 note) is amended by striking "section 3542(b)(2)" and inserting "section 3552(b)".

(F) IKE SKELTON NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2011.—The Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383) is amended—

(i) in section 806(e)(5) (10 U.S.C. 2304 note), by striking "section 3542(b)" and inserting "section 3552(b)";

(ii) in section 931(b)(3) (10 U.S.C. 2223 note), by striking "section 3542(b)(2)" and inserting "section 3552(b)"; and

(iii) in section 932(b)(2) (10 U.S.C. 2224 note), by striking "section 3542(b)(2)" and inserting "section 3552(b)".

(G) E-GOVERNMENT ACT OF 2002.—Section 301(c)(1)(A) of the E-Government Act of 2002 (44 U.S.C. 3501 note) is amended by striking "section 3542(b)(2)" and inserting "section 3552(b)".

(H) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT.—Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3) is amended—

(i) in subsection (a)(2), by striking "section 3552(b)(5)" and inserting "section 3552(b)"; and

(ii) in subsection (f)—

(I) in paragraph (3), by striking "section 3532(1)" and inserting "section 3552(b)"; and

(II) in paragraph (5), by striking "section 3532(b)(2)" and inserting "section 3552(b)".

(c) Subchapter II Amendments.—Subchapter II of chapter 35 of title 44, United States Code, is amended—

(1) in section 3551—

(A) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively;

(B) by inserting after paragraph (2) the following:

"(3) recognize the role of the Cybersecurity and Infrastructure Security Agency as the lead entity for operational cybersecurity coordination across the Federal Government;";

(C) in paragraph (5), as so redesignated, by striking "diagnose and improve" and inserting "integrate, deliver, diagnose, and improve";

(D) in paragraph (6), as so redesignated, by striking "and" at the end;

(E) in paragraph (7), as so redesignated, by striking the period at the end and

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inserting a semi colon; and

(F) by adding at the end the following:

"(8) recognize that each agency has specific mission requirements and, at times, unique cybersecurity requirements to meet the mission of the agency;

"(9) recognize that each agency does not have the same resources to secure agency systems, and an agency should not be expected to have the capability to secure the systems of the agency from advanced adversaries alone; and

"(10) recognize that—

"(A) a holistic Federal cybersecurity model is necessary to account for differences between the missions and capabilities of agencies; and

"(B) in accounting for the differences described in subparagraph (A) and ensuring overall Federal cybersecurity—

"(i) the Office of Management and Budget is the leader for policy development and oversight of Federal cybersecurity;

"(ii) the Cybersecurity and Infrastructure Security Agency is the leader for implementing operations at agencies; and

"(iii) the National Cyber Director is responsible for developing the overall cybersecurity strategy of the United States and advising the President on matters relating to cybersecurity.";

(2) in section 3553—

(A) by striking the section heading and inserting "Authority and functions of the Director and the Director of the Cybersecurity and Infrastructure Security Agency".

(B) in subsection (a)—

(i) in paragraph (1), by inserting "in coordination with the Director of the Cybersecurity and Infrastructure Security Agency and the National Cyber Director," before "developing and overseeing";

(ii) in paragraph (5)—

(I) by inserting ", in consultation with the Director of the Cybersecurity and Infrastructure Security Agency and the National Cyber Director," before "agency compliance"; and

(II) by striking "and" at the end; and

(iii) by adding at the end the following:

"(8) promoting, in consultation with the Director of the Cybersecurity and Infrastructure Security Agency and the Director of the National Institute of Standards and Technology—

"(A) the use of automation to improve Federal cybersecurity and visibility with respect to the implementation of Federal cybersecurity; and

"(B) the use of presumption of compromise and least privilege principles to improve resiliency and timely response actions to incidents on Federal systems.";

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(C) in subsection (b)—

(i) by striking the subsection heading and inserting "Cybersecurity and Infrastructure Security Agency";

(ii) in the matter preceding paragraph (1), by striking "The Secretary, in consultation with the Director" and inserting "The Director of the Cybersecurity and Infrastructure Security Agency, in consultation with the Director and the National Cyber Director";

(iii) in paragraph (2)—

(I) in subparagraph (A), by inserting "and reporting requirements under subchapter IV of this title" after "section 3556"; and

(II) in subparagraph (D), by striking "the Director or Secretary" and inserting "the Director of the Cybersecurity and Infrastructure Security Agency";

(iv) in paragraph (5), by striking "coordinating" and inserting "leading the coordination of";

(v) in paragraph (8), by striking "the Secretary's discretion" and inserting "the Director of the Cybersecurity and Infrastructure Security Agency's discretion"; and

(vi) in paragraph (9), by striking "as the Director or the Secretary, in consultation with the Director," and inserting "as the Director of the Cybersecurity and Infrastructure Security Agency";

(D) in subsection (c)—

(i) in the matter preceding paragraph (1), by striking "each year" and inserting "each year during which agencies are required to submit reports under section 3554(c)";

(ii) by striking paragraph (1);

(iii) by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively;

(iv) in paragraph (3), as so redesignated, by striking "and" at the end;

(v) by inserting after paragraph (3), as so redesignated the following:

"(4) a summary of each assessment of Federal risk posture performed under subsection (i);"; and

(vi) in paragraph (5), by striking the period at the end and inserting "; and";

(E) by redesignating subsections (i), (j), (k), and (l) as subsections (j), (k), (l), and (m) respectively;

(F) by inserting after subsection (h) the following:

"(i) Federal Risk Assessments.—On an ongoing and continuous basis, the Director of the Cybersecurity and Infrastructure Security Agency shall perform assessments of Federal risk

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posture using any available information on the cybersecurity posture of agencies, and brief the Director and National Cyber Director on the findings of those assessments including—

"(1) the status of agency cybersecurity remedial actions described in section 3554(b)(7);

"(2) any vulnerability information relating to the systems of an agency that is known by the agency;

"(3) analysis of incident information under section 3597;

"(4) evaluation of penetration testing performed under section 3559A;

"(5) evaluation of vulnerability disclosure program information under section 3559B;

"(6) evaluation of agency threat hunting results;

"(7) evaluation of Federal and non-Federal threat intelligence;

"(8) data on agency compliance with standards issued under section 11331 of title 40;

"(9) agency system risk assessments performed under section 3554(a)(1)(A); and

"(10) any other information the Director of the Cybersecurity and Infrastructure Security Agency determines relevant."; and

(G) in subsection (j), as so redesignated—

(i) by striking "regarding the specific" and inserting "that includes a summary of—

"(1) the specific";

(ii) in paragraph (1), as so designated, by striking the period at the end and inserting "; and" and

(iii) by adding at the end the following:

"(2) the trends identified in the Federal risk assessment performed under subsection (i)."; and

(H) by adding at the end the following:

"(n) Binding Operational Directives.—If the Director of the Cybersecurity and Infrastructure Security Agency issues a binding operational directive or an emergency directive under this section, not later than 2 days after the date on which the binding operational directive requires an agency to take an action, the Director of the Cybersecurity and Infrastructure Security Agency shall provide to the appropriate reporting entities the status of the implementation of the binding operational directive at the agency.";

(3) in section 3554—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) by redesignating subparagraphs (A), (B), and (C) as subparagraphs (B), (C), and (D), respectively;

(II) by inserting before subparagraph (B), as so redesignated, the

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following:

"(A) on an ongoing and continuous basis, performing agency system risk assessments that—

"(i) identify and document the high value assets of the agency using guidance from the Director;

"(ii) evaluate the data assets inventoried under section 3511 for sensitivity to compromises in confidentiality, integrity, and availability;

"(iii) identify agency systems that have access to or hold the data assets inventoried under section 3511;

"(iv) evaluate the threats facing agency systems and data, including high value assets, based on Federal and non-Federal cyber threat intelligence products, where available;

"(v) evaluate the vulnerability of agency systems and data, including high value assets, including by analyzing—

"(I) the results of penetration testing performed by the Department of Homeland Security under section 3553(b)(9);

"(II) the results of penetration testing performed under section 3559A;

"(III) information provided to the agency through the vulnerability disclosure program of the agency under section 3559B;

"(IV) incidents; and

"(V) any other vulnerability information relating to agency systems that is known to the agency;

"(vi) assess the impacts of potential agency incidents to agency systems, data, and operations based on the evaluations described in clauses (ii) and (iv) and the agency systems identified under clause (iii); and

"(vii) assess the consequences of potential incidents occurring on agency systems that would impact systems at other agencies, including due to interconnectivity between different agency systems or operational reliance on the operations of the system or data in the system;";

(III) in subparagraph (B), as so redesignated, in the matter preceding clause (i), by striking "providing information" and inserting "using information from the assessment conducted under subparagraph (A), providing, in coordination with the Director of the Cybersecurity and Infrastructure Security Agency, information";

(IV) in subparagraph (C), as so redesignated—

(aa) in clause (ii) by inserting "binding" before "operational"; and

(bb) in clause (vi), by striking "and" at the end; and

(V) by adding at the end the following:

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"(E) providing an update on the ongoing and continuous assessment performed under subparagraph (A)—

"(i) upon request, to the inspector general of the agency or the Comptroller General of the United States; and

"(ii) on a periodic basis, as determined by guidance issued by the Director but not less frequently than annually, to—

"(I) the Director;

"(II) the Director of the Cybersecurity and Infrastructure Security Agency; and

"(III) the National Cyber Director;

"(F) in consultation with the Director of the Cybersecurity and Infrastructure Security Agency and not less frequently than once every 3 years, performing an evaluation of whether additional cybersecurity procedures are appropriate for securing a system of, or under the supervision of, the agency, which shall—

"(i) be completed considering the agency system risk assessment performed under subparagraph (A); and

"(ii) include a specific evaluation for high value assets;

"(G) not later than 30 days after completing the evaluation performed under subparagraph (F), providing the evaluation and an implementation plan, if applicable, for using additional cybersecurity procedures determined to be appropriate to—

"(i) the Director of the Cybersecurity and Infrastructure Security Agency;

"(ii) the Director; and

"(iii) the National Cyber Director; and

"(H) if the head of the agency determines there is need for additional cybersecurity procedures, ensuring that those additional cybersecurity procedures are reflected in the budget request of the agency in accordance with the risk-based cyber budget model developed pursuant to section 3553(a)(7);";

(ii) in paragraph (2)—

(I) in subparagraph (A), by inserting "in accordance with the agency system risk assessment performed under paragraph (1)(A)" after "information systems";

(II) in subparagraph (B)—

(aa) by striking "in accordance with standards" and inserting "in accordance with—

"(i) standards"; and

(bb) by adding at the end the following:

"(ii) the evaluation performed under paragraph (1)(F); and

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"(iii) the implementation plan described in paragraph (1)(G);"; and

(III) in subparagraph (D), by inserting ", through the use of penetration testing, the vulnerability disclosure program established under section 3559B, and other means," after "periodically";

(iii) in paragraph (3)—

(I) in subparagraph (A)—

(aa) in clause (iii), by striking "and" at the end;

(bb) in clause (iv), by adding "and" at the end; and

(cc) by adding at the end the following:

"(v) ensure that—

"(I) senior agency information security officers of component agencies carry out responsibilities under this subchapter, as directed by the senior agency information security officer of the agency or an equivalent official; and

"(II) senior agency information security officers of component agencies report to—

"(aa) the senior information security officer of the agency or an equivalent official; and

"(bb) the Chief Information Officer of the component agency or an equivalent official;"; and

(iv) in paragraph (5), by inserting "and the Director of the Cybersecurity and Infrastructure Security Agency" before "on the effectiveness";

(B) in subsection (b)—

(i) by striking paragraph (1) and inserting the following:

"(1) pursuant to subsection (a)(1)(A), performing ongoing and continuous agency system risk assessments, which may include using guidelines and automated tools consistent with standards and guidelines promulgated under section 11331 of title 40, as applicable;";

(ii) in paragraph (2)—

(I) by striking subparagraph (B) and inserting the following:

"(B) comply with the risk-based cyber budget model developed pursuant to section 3553(a)(7);"; and

(II) in subparagraph (D)—

(aa) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively;

(bb) by inserting after clause (ii) the following:

"(iii) binding operational directives and emergency directives promulgated by the Director of the Cybersecurity and Infrastructure Security Agency under

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section 3553;"; and

(cc) in clause (iv), as so redesignated, by striking "as determined by the agency; and" and inserting "as determined by the agency, considering—

"(I) the agency risk assessment performed under subsection (a)(1)(A); and

"(II) the determinations of applying more stringent standards and additional cybersecurity procedures pursuant to section 11331(c)(1) of title 40; and";

(iii) in paragraph (5)(A), by inserting ", including penetration testing, as appropriate," after "shall include testing";

(iv) in paragraph (6), by striking "planning, implementing, evaluating, and documenting" and inserting "planning and implementing and, in consultation with the Director of the Cybersecurity and Infrastructure Security Agency, evaluating and documenting";

(v) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively;

(vi) by inserting after paragraph (6) the following:

"(7) a process for providing the status of every remedial action and known system vulnerability to the Director and the Director of the Cybersecurity and Infrastructure Security Agency, using automation and machine-readable data to the greatest extent practicable;"; and

(vii) in paragraph (8)(C), as so redesignated—

(I) by striking clause (ii) and inserting the following:

"(ii) notifying and consulting with the Federal information security incident center established under section 3556 pursuant to the requirements of section 3594;";

(II) by redesignating clause (iii) as clause (iv);

(III) by inserting after clause (ii) the following:

"(iii) performing the notifications and other activities required under subchapter IV of this title; and"; and

(IV) in clause (iv), as so redesignated—

(aa) in subclause (I), by striking "and relevant offices of inspectors general";

(bb) in subclause (II), by adding "and" at the end;

(cc) by striking subclause (III); and

(dd) by redesignating subclause (IV) as subclause (III);

(C) in subsection (c)—

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(i) by redesignating paragraph (2) as paragraph (5);

(ii) by striking paragraph (1) and inserting the following:

"(1) BIANNUAL REPORT.—Not later than 2 years after the date of enactment of the Federal Information Security Modernization Act of 2021 and not less frequently than once every 2 years thereafter, using the continuous and ongoing agency system risk assessment under subsection (a)(1)(A), the head of each agency shall submit to the Director, the Director of the Cybersecurity and Infrastructure Security Agency, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Reform of the House of Representatives, the Committee on Homeland Security of the House of Representatives, the appropriate authorization and appropriations committees of Congress, the National Cyber Director, and the Comptroller General of the United States a report that—

"(A) summarizes the agency system risk assessment performed under subsection (a)(1)(A);

"(B) evaluates the adequacy and effectiveness of information security policies, procedures, and practices of the agency to address the risks identified in the agency system risk assessment performed under subsection (a)(1)(A), including an analysis of the agency's cybersecurity and incident response capabilities using the metrics established under section 224(c) of the Cybersecurity Act of 2015 (6 U.S.C. 1522(c));

"(C) summarizes the evaluation and implementation plans described in subparagraphs (F) and (G) of subsection (a)(1) and whether those evaluation and implementation plans call for the use of additional cybersecurity procedures determined to be appropriate by the agency; and

"(D) summarizes the status of remedial actions identified by inspector general of the agency, the Comptroller General of the United States, and any other source determined appropriate by the head of the agency.

"(2) UNCLASSIFIED REPORTS.—Each report submitted under paragraph (1)—

"(A) shall be, to the greatest extent practicable, in an unclassified and otherwise uncontrolled form; and

"(B) may include a classified annex.

"(3) ACCESS TO INFORMATION.—The head of an agency shall ensure that, to the greatest extent practicable, information is included in the unclassified form of the report submitted by the agency under paragraph (2)(A).

"(4) BRIEFINGS.—During each year during which a report is not required to be submitted under paragraph (1), the Director shall provide to the congressional committees described in paragraph (1) a briefing summarizing current agency and Federal risk postures."; and

(iii) in paragraph (5), as so redesignated, by inserting "including the reporting procedures established under section 11315(d) of title 40 and subsection (a)(3)(A)(v) of this section"; and

(D) in subsection (d)(1), in the matter preceding subparagraph (A), by inserting "and the Director of the Cybersecurity and Infrastructure Security Agency" after "the

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Director"; and

(4) in section 3555—

(A) in the section heading, by striking "annual independent" and inserting "independent";

(B) in subsection (a)—

(i) in paragraph (1), by inserting "during which a report is required to be submitted under section 3553(c)," after "Each year";

(ii) in paragraph (2)(A), by inserting ", including by penetration testing and analyzing the vulnerability disclosure program of the agency" after "information systems"; and

(iii) by adding at the end the following:

"(3) An evaluation under this section may include recommendations for improving the cybersecurity posture of the agency.";

(C) in subsection (b)(1), by striking "annual";

(D) in subsection (e)(1), by inserting "during which a report is required to be submitted under section 3553(c)" after "Each year";

(E) by striking subsection (f) and inserting the following:

"(f) Protection of Information.—(1) Agencies, evaluators, and other recipients of information that, if disclosed, may cause grave harm to the efforts of Federal information security officers shall take appropriate steps to ensure the protection of that information, including safeguarding the information from public disclosure.

"(2) The protections required under paragraph (1) shall be commensurate with the risk and comply with all applicable laws and regulations.

"(3) With respect to information that is not related to national security systems, agencies and evaluators shall make a summary of the information unclassified and publicly available, including information that does not identify—

"(A) specific information system incidents; or

"(B) specific information system vulnerabilities.";

(F) in subsection (g)(2)—

(i) by striking "this subsection shall" and inserting "this subsection—

"(A) shall";

(ii) in subparagraph (A), as so designated, by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(B) identify any entity that performs an independent evaluation under subsection (b).";
and

(G) by striking subsection (j) and inserting the following:

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"(j) Guidance.—

"(1) IN GENERAL.—The Director, in consultation with the Director of the Cybersecurity and Infrastructure Security Agency, the Chief Information Officers Council, the Council of the Inspectors General on Integrity and Efficiency, and other interested parties as appropriate, shall ensure the development of guidance for evaluating the effectiveness of an information security program and practices

"(2) PRIORITIES.—The guidance developed under paragraph (1) shall prioritize the identification of—

"(A) the most common threat patterns experienced by each agency;

"(B) the security controls that address the threat patterns described in subparagraph (A); and

"(C) any other security risks unique to the networks of each agency."; and

(5) in section 3556(a)—

(A) in the matter preceding paragraph (1), by inserting "within the Cybersecurity and Infrastructure Security Agency" after "incident center"; and

(B) in paragraph (4), by striking "3554(b)" and inserting "3554(a)(1)(A)".

(d) Conforming Amendments.—

(1) TABLE OF SECTIONS.—The table of sections for chapter 35 of title 44, United States Code, is amended—

(A) by striking the item relating to section 3553 and inserting the following:

"3553. Authority and functions of the Director and the Director of the Cybersecurity and Infrastructure Security Agency."; and

(B) by striking the item relating to section 3555 and inserting the following:

"3555. Independent evaluation.".

(2) OMB REPORTS.—Section 226(c) of the Cybersecurity Act of 2015 (6 U.S.C. 1524(c)) is amended—

(A) in paragraph (1)(B), in the matter preceding clause (i), by striking "annually thereafter" and inserting "thereafter during the years during which a report is required to be submitted under section 3553(c) of title 44, United States Code"; and

(B) in paragraph (2)(B), in the matter preceding clause (i)—

(i) by striking "annually thereafter" and inserting "thereafter during the years during which a report is required to be submitted under section 3553(c) of title 44, United States Code"; and

(ii) by striking "the report required under section 3553(c) of title 44, United States Code" and inserting "that report".

(3) NIST RESPONSIBILITIES.—Section 20(d)(3)(B) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(d)(3)(B)) is amended by striking "annual".

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(e) Federal System Incident Response.—

(1) IN GENERAL.—Chapter 35 of title 44, United States Code, is amended by adding at the end the following:

"SUBCHAPTER IV—FEDERAL SYSTEM INCIDENT RESPONSE

"3591. Definitions

"(a) In General.—Except as provided in subsection (b), the definitions under sections 3502 and 3552 shall apply to this subchapter.

"(b) Additional Definitions.—As used in this subchapter:

"(1) APPROPRIATE REPORTING ENTITIES.—The term 'appropriate reporting entities' means—

"(A) the majority and minority leaders of the Senate;

"(B) the Speaker and minority leader of the House of Representatives;

"(C) the Committee on Homeland Security and Governmental Affairs of the Senate;

"(D) the Committee on Oversight and Reform of the House of Representatives;

"(E) the Committee on Homeland Security of the House of Representatives;

"(F) the appropriate authorization and appropriations committees of Congress;

"(G) the Director;

"(H) the Director of the Cybersecurity and Infrastructure Security Agency;

"(I) the National Cyber Director;

"(J) the Comptroller General of the United States; and

"(K) the inspector general of any impacted agency.

"(2) AWARDEE.—The term 'awardee'—

"(A) means a person, business, or other entity that receives a grant from, or is a party to a cooperative agreement or an other transaction agreement with, an agency; and

"(B) includes any subgrantee of a person, business, or other entity described in subparagraph (A).

"(3) BREACH.—The term 'breach' means—

"(A) a compromise of the security, confidentiality, or integrity of data in electronic form that results in unauthorized access to, or an acquisition of, personal information; or

"(B) a loss of data in electronic form that results in unauthorized access to, or an acquisition of, personal information.

"(4) CONTRACTOR.—The term 'contractor' means—

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"(A) a prime contractor of an agency or a subcontractor of a prime contractor of an agency; and

"(B) any person or business that collects or maintains information, including personally identifiable information, on behalf of an agency.

"(5) FEDERAL INFORMATION.—The term 'Federal information' means information created, collected, processed, maintained, disseminated, disclosed, or disposed of by or for the Federal Government in any medium or form.

"(6) FEDERAL INFORMATION SYSTEM.—The term 'Federal information system' means an information system used or operated by an agency, a contractor, an awardee, or another organization on behalf of an agency.

"(7) INTELLIGENCE COMMUNITY.—The term 'intelligence community' has the meaning given the term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003).

"(8) NATIONWIDE CONSUMER REPORTING AGENCY.—The term 'nationwide consumer reporting agency' means a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p)).

"(9) VULNERABILITY DISCLOSURE.—The term 'vulnerability disclosure' means a vulnerability identified under section 3559B.

"3592. Notification of breach

"(a) Notification.—As expeditiously as practicable and without unreasonable delay, and in any case not later than 45 days after an agency has a reasonable basis to conclude that a breach has occurred, the head of the agency, in consultation with a senior privacy officer of the agency, shall—

"(1) determine whether notice to any individual potentially affected by the breach is appropriate based on an assessment of the risk of harm to the individual that considers—

"(A) the nature and sensitivity of the personally identifiable information affected by the breach;

"(B) the likelihood of access to and use of the personally identifiable information affected by the breach;

"(C) the type of breach; and

"(D) any other factors determined by the Director; and

"(2) as appropriate, provide written notice in accordance with subsection (b) to each individual potentially affected by the breach—

"(A) to the last known mailing address of the individual; or

"(B) through an appropriate alternative method of notification that the head of the agency or a designated senior-level individual of the agency selects based on factors determined by the Director.

"(b) Contents of Notice.—Each notice of a breach provided to an individual under subsection (a)(2) shall include—

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"(1) a brief description of the rationale for the determination that notice should be provided under subsection (a);

"(2) if possible, a description of the types of personally identifiable information affected by the breach;

"(3) contact information of the agency that may be used to ask questions of the agency, which—

"(A) shall include an e-mail address or another digital contact mechanism; and

"(B) may include a telephone number or a website;

"(4) information on any remedy being offered by the agency;

"(5) any applicable educational materials relating to what individuals can do in response to a breach that potentially affects their personally identifiable information, including relevant contact information for Federal law enforcement agencies and each nationwide consumer reporting agency; and

"(6) any other appropriate information, as determined by the head of the agency or established in guidance by the Director.

"(c) Delay of Notification.—

"(1) IN GENERAL.—The Attorney General, the Director of National Intelligence, or the Secretary of Homeland Security may delay a notification required under subsection (a) if the notification would—

"(A) impede a criminal investigation or a national security activity;

"(B) reveal sensitive sources and methods;

"(C) cause damage to national security; or

"(D) hamper security remediation actions.

"(2) DOCUMENTATION.—

"(A) IN GENERAL.—Any delay under paragraph (1) shall be reported in writing to the Director, the Attorney General, the Director of National Intelligence, the Secretary of Homeland Security, the Director of the Cybersecurity and Infrastructure Security Agency, and the head of the agency and the inspector general of the agency that experienced the breach.

"(B) CONTENTS.—A report required under subparagraph (A) shall include a written statement from the entity that delayed the notification explaining the need for the delay.

"(C) FORM.—The report required under subparagraph (A) shall be unclassified but may include a classified annex.

"(3) RENEWAL.—A delay under paragraph (1) shall be for a period of 60 days and may be renewed.

"(d) Update Notification.—If an agency determines there is a significant change in the reasonable basis to conclude that a breach occurred, a significant change to the determination

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made under subsection (a)(1), or that it is necessary to update the details of the information provided to impacted individuals as described in subsection (b), the agency shall as expeditiously as practicable and without unreasonable delay, and in any case not later than 30 days after such a determination, notify each individual who received a notification pursuant to subsection (a) of those changes.

"(e) Exemption From Notification.—

"(1) IN GENERAL.—The head of an agency, in consultation with the inspector general of the agency, may request an exemption from the Director from complying with the notification requirements under subsection (a) if the information affected by the breach is determined by an independent evaluation to be unreadable, including, as appropriate, instances in which the information is—

"(A) encrypted; and

"(B) determined by the Director of the Cybersecurity and Infrastructure Security Agency to be of sufficiently low risk of exposure.

"(2) APPROVAL.—The Director shall determine whether to grant an exemption requested under paragraph (1) in consultation with—

"(A) the Director of the Cybersecurity and Infrastructure Security Agency; and

"(B) the Attorney General.

"(3) DOCUMENTATION.—Any exemption granted by the Director under paragraph (1) shall be reported in writing to the head of the agency and the inspector general of the agency that experienced the breach and the Director of the Cybersecurity and Infrastructure Security Agency.

"(f) Rule of Construction.—Nothing in this section shall be construed to limit—

"(1) the Director from issuing guidance relating to notifications or the head of an agency from notifying individuals potentially affected by breaches that are not determined to be major incidents; or

"(2) the Director from issuing guidance relating to notifications of major incidents or the head of an agency from providing more information than described in subsection (b) when notifying individuals potentially affected by breaches.

"3593. Congressional and Executive Branch reports

"(a) Initial Report.—

"(1) IN GENERAL.—Not later than 72 hours after an agency has a reasonable basis to conclude that a major incident occurred, the head of the agency impacted by the major incident shall submit to the appropriate reporting entities a written report and, to the extent practicable, provide a briefing to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Reform of the House of Representatives, the Committee on Homeland Security of the House of Representatives, and the appropriate authorization and appropriations committees of Congress, taking into account—

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"(A) the information known at the time of the report;

"(B) the sensitivity of the details associated with the major incident; and

"(C) the classification level of the information contained in the report.

"(2) CONTENTS.—A report required under paragraph (1) shall include, in a manner that excludes or otherwise reasonably protects personally identifiable information and to the extent permitted by applicable law, including privacy and statistical laws—

"(A) a summary of the information available about the major incident, including how the major incident occurred, information indicating that the major incident may be a breach, and information relating to the major incident as a breach, based on information available to agency officials as of the date on which the agency submits the report;

"(B) if applicable, a description and any associated documentation of any circumstances necessitating a delay in or exemption to notification to individuals potentially affected by the major incident under subsection (c) or (e) of section 3592; and

"(C) if applicable, an assessment of the impacts to the agency, the Federal Government, or the security of the United States, based on information available to agency officials on the date on which the agency submits the report.

"(b) Supplemental Report.—Within a reasonable amount of time, but not later than 30 days after the date on which an agency submits a written report under subsection (a), the head of the agency shall provide to the appropriate reporting entities written updates on the major incident and, to the extent practicable, provide a briefing to the congressional committees described in subsection (a)(1), including summaries of—

"(1) vulnerabilities, means by which the major incident occurred, and impacts to the agency relating to the major incident;

"(2) any risk assessment and subsequent risk-based security implementation of the affected information system before the date on which the major incident occurred;

"(3) the status of compliance of the affected information system with applicable security requirements at the time of the major incident;

"(4) an estimate of the number of individuals potentially affected by the major incident based on information available to agency officials as of the date on which the agency provides the update;

"(5) an assessment of the risk of harm to individuals potentially affected by the major incident based on information available to agency officials as of the date on which the agency provides the update;

"(6) an update to the assessment of the risk to agency operations, or to impacts on other agency or non-Federal entity operations, affected by the major incident based on information available to agency officials as of the date on which the agency provides the update; and

"(7) the detection, response, and remediation actions of the agency, including any support

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provided by the Cybersecurity and Infrastructure Security Agency under section 3594(d) and status updates on the notification process described in section 3592(a), including any delay or exemption described in subsection (c) or (e), respectively, of section 3592, if applicable.

"(c) Update Report.—If the agency determines that there is any significant change in the understanding of the agency of the scope, scale, or consequence of a major incident for which an agency submitted a written report under subsection (a), the agency shall provide an updated report to the appropriate reporting entities that includes information relating to the change in understanding.

"(d) Annual Report.—Each agency shall submit as part of the annual report required under section 3554(c)(1) of this title a description of each major incident that occurred during the 1-year period preceding the date on which the report is submitted.

"(e) Delay and Exemption Report.—

"(1) IN GENERAL.—The Director shall submit to the appropriate notification entities an annual report on all notification delays and exemptions granted pursuant to subsections (c) and (d) of section 3592.

"(2) COMPONENT OF OTHER REPORT.—The Director may submit the report required under paragraph (1) as a component of the annual report submitted under section 3597(b).

"(f) Report Delivery.—Any written report required to be submitted under this section may be submitted in a paper or electronic format.

"(g) Threat Briefing.—

"(1) IN GENERAL.—Not later than 7 days after the date on which an agency has a reasonable basis to conclude that a major incident occurred, the head of the agency, jointly with the National Cyber Director and any other Federal entity determined appropriate by the National Cyber Director, shall provide a briefing to the congressional committees described in subsection (a)(1) on the threat causing the major incident.

"(2) COMPONENTS.—The briefing required under paragraph (1)—

"(A) shall, to the greatest extent practicable, include an unclassified component; and

"(B) may include a classified component.

"(h) Rule of Construction.—Nothing in this section shall be construed to limit—

"(1) the ability of an agency to provide additional reports or briefings to Congress; or

"(2) Congress from requesting additional information from agencies through reports, briefings, or other means.

"3594. Government information sharing and incident response

"(a) In General.—

"(1) INCIDENT REPORTING.—The head of each agency shall provide any information relating to any incident, whether the information is obtained by the Federal Government directly or indirectly, to the Cybersecurity and Infrastructure Security Agency and the Office of Management and Budget.

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"(2) CONTENTS.—A provision of information relating to an incident made by the head of an agency under paragraph (1) shall—

"(A) include detailed information about the safeguards that were in place when the incident occurred;

"(B) whether the agency implemented the safeguards described in subparagraph (A) correctly;

"(C) in order to protect against a similar incident, identify—

"(i) how the safeguards described in subparagraph (A) should be implemented differently; and

"(ii) additional necessary safeguards; and

"(D) include information to aid in incident response, such as—

"(i) a description of the affected systems or networks;

"(ii) the estimated dates of when the incident occurred; and

"(iii) information that could reasonably help identify the party that conducted the incident.

"(3) INFORMATION SHARING.—To the greatest extent practicable, the Director of the Cybersecurity and Infrastructure Security Agency shall share information relating to an incident with any agencies that may be impacted by the incident.

"(4) NATIONAL SECURITY SYSTEMS.—Each agency operating or exercising control of a national security system shall share information about incidents that occur on national security systems with the Director of the Cybersecurity and Infrastructure Security Agency to the extent consistent with standards and guidelines for national security systems issued in accordance with law and as directed by the President.

"(b) Compliance.—The information provided under subsection (a) shall take into account the level of classification of the information and any information sharing limitations and protections, such as limitations and protections relating to law enforcement, national security, privacy, statistical confidentiality, or other factors determined by the Director

"(c) Incident Response.—Each agency that has a reasonable basis to conclude that a major incident occurred involving Federal information in electronic medium or form, as defined by the Director and not involving a national security system, regardless of delays from notification granted for a major incident, shall coordinate with the Cybersecurity and Infrastructure Security Agency regarding—

"(1) incident response and recovery; and

"(2) recommendations for mitigating future incidents.

"3595. Responsibilities of contractors and awardees

"(a) Notification.—

"(1) IN GENERAL.—Unless otherwise specified in a contract, grant, cooperative agreement, or an other transaction agreement, any contractor or awardee of an agency shall

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report to the agency within the same amount of time such agency is required to report an incident to the Cybersecurity and Infrastructure Security Agency, if the contractor or awardee has a reasonable basis to conclude that—

"(A) an incident or breach has occurred with respect to Federal information collected, used, or maintained by the contractor or awardee in connection with the contract, grant, cooperative agreement, or other transaction agreement of the contractor or awardee;

"(B) an incident or breach has occurred with respect to a Federal information system used or operated by the contractor or awardee in connection with the contract, grant, cooperative agreement, or other transaction agreement of the contractor or awardee; or

"(C) the contractor or awardee has received information from the agency that the contractor or awardee is not authorized to receive in connection with the contract, grant, cooperative agreement, or other transaction agreement of the contractor or awardee.

"(2) PROCEDURES.—

"(A) MAJOR INCIDENT.—Following a report of a breach or major incident by a contractor or awardee under paragraph (1), the agency, in consultation with the contractor or awardee, shall carry out the requirements under sections 3592, 3593, and 3594 with respect to the major incident.

"(B) INCIDENT.—Following a report of an incident by a contractor or awardee under paragraph (1), an agency, in consultation with the contractor or awardee, shall carry out the requirements under section 3594 with respect to the incident.

"(b) Effective Date.—This section shall apply on and after the date that is 1 year after the date of enactment of the Federal Information Security Modernization Act of 2021.

"3596. Training

"(a) Covered Individual Defined.—In this section, the term 'covered individual' means an individual who obtains access to Federal information or Federal information systems because of the status of the individual as an employee, contractor, awardee, volunteer, or intern of an agency.

"(b) Requirement.—The head of each agency shall develop training for covered individuals on how to identify and respond to an incident, including—

"(1) the internal process of the agency for reporting an incident; and

"(2) the obligation of a covered individual to report to the agency a confirmed major incident and any suspected incident involving information in any medium or form, including paper, oral, and electronic.

"(c) Inclusion in Annual Training.—The training developed under subsection (b) may be included as part of an annual privacy or security awareness training of an agency.

"3597. Analysis and report on Federal incidents

"(a) Analysis of Federal Incidents.—

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"(1) QUANTITATIVE AND QUALITATIVE ANALYSES.—The Director of the Cybersecurity and Infrastructure Security Agency shall develop, in consultation with the Director and the National Cyber Director, and perform continuous monitoring and quantitative and qualitative analyses of incidents at agencies, including major incidents, including—

"(A) the causes of incidents, including—

"(i) attacker tactics, techniques, and procedures; and

"(ii) system vulnerabilities, including zero days, unpatched systems, and information system misconfigurations;

"(B) the scope and scale of incidents at agencies;

"(C) cross Federal Government root causes of incidents at agencies;

"(D) agency incident response, recovery, and remediation actions and the effectiveness of those actions, as applicable;

"(E) lessons learned and recommendations in responding to, recovering from, remediating, and mitigating future incidents; and

"(F) trends in cross-Federal Government cybersecurity and incident response capabilities using the metrics established under section 224(c) of the Cybersecurity Act of 2015 (6 U.S.C. 1522(c)).

"(2) AUTOMATED ANALYSIS.—The analyses developed under paragraph (1) shall, to the greatest extent practicable, use machine readable data, automation, and machine learning processes.

"(3) SHARING OF DATA AND ANALYSIS.—

"(A) IN GENERAL.—The Director shall share on an ongoing basis the analyses required under this subsection with agencies and the National Cyber Director to—

"(i) improve the understanding of cybersecurity risk of agencies; and

"(ii) support the cybersecurity improvement efforts of agencies.

"(B) FORMAT.—In carrying out subparagraph (A), the Director shall share the analyses—

"(i) in human-readable written products; and

"(ii) to the greatest extent practicable, in machine-readable formats in order to enable automated intake and use by agencies.

"(b) Annual Report on Federal Incidents.—Not later than 2 years after the date of enactment of this section, and not less frequently than annually thereafter, the Director of the Cybersecurity and Infrastructure Security Agency, in consultation with the Director and other Federal agencies as appropriate, shall submit to the appropriate notification entities a report that includes—

"(1) a summary of causes of incidents from across the Federal Government that categorizes those incidents as incidents or major incidents;

"(2) the quantitative and qualitative analyses of incidents developed under subsection (a)(1) on an agency-by-agency basis and comprehensively across the Federal Government,

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including—

"(A) a specific analysis of breaches; and

"(B) an analysis of the Federal Government's performance against the metrics established under section 224(c) of the Cybersecurity Act of 2015 (6 U.S.C. 1522(c)); and

"(3) an annex for each agency that includes—

"(A) a description of each major incident;

"(B) the total number of compromises of the agency; and

"(C) an analysis of the agency's performance against the metrics established under section 224(c) of the Cybersecurity Act of 2015 (6 U.S.C. 1522(c)).

"(c) Publication.—A version of each report submitted under subsection (b) shall be made publicly available on the website of the Cybersecurity and Infrastructure Security Agency during the year in which the report is submitted.

"(d) Information Provided by Agencies.—

"(1) IN GENERAL.—The analysis required under subsection (a) and each report submitted under subsection (b) shall use information provided by agencies under section 3594(a).

"(2) NONCOMPLIANCE REPORTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), during any year during which the head of an agency does not provide data for an incident to the Cybersecurity and Infrastructure Security Agency in accordance with section 3594(a), the head of the agency, in coordination with the Director of the Cybersecurity and Infrastructure Security Agency and the Director, shall submit to the appropriate reporting entities a report that includes—

"(i) data for the incident; and

"(ii) the information described in subsection (b) with respect to the agency.

"(B) EXCEPTION FOR NATIONAL SECURITY SYSTEMS.—The head of an agency that owns or exercises control of a national security system shall not include data for an incident that occurs on a national security system in any report submitted under subparagraph (A).

"(3) NATIONAL SECURITY SYSTEM REPORTS.—

"(A) IN GENERAL.—Annually, the head of an agency that operates or exercises control of a national security system shall submit a report that includes the information described in subsection (b) with respect to the agency to the extent that the submission is consistent with standards and guidelines for national security systems issued in accordance with law and as directed by the President to—

"(i) the majority and minority leaders of the Senate,

"(ii) the Speaker and minority leader of the House of Representatives;

"(iii) the Committee on Homeland Security and Governmental Affairs of the

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Senate;

"(iv) the Select Committee on Intelligence of the Senate;

"(v) the Committee on Armed Services of the Senate;

"(vi) the Committee on Appropriations of the Senate;

"(vii) the Committee on Oversight and Reform of the House of Representatives;

"(viii) the Committee on Homeland Security of the House of Representatives;

"(ix) the Permanent Select Committee on Intelligence of the House of Representatives;

"(x) the Committee on Armed Services of the House of Representatives; and

"(xi) the Committee on Appropriations of the House of Representatives.

"(B) CLASSIFIED FORM.—A report required under subparagraph (A) may be submitted in a classified form.

"(e) Requirement for Compiling Information.—In publishing the public report required under subsection (c), the Director of the Cybersecurity and Infrastructure Security Agency shall sufficiently compile information such that no specific incident of an agency can be identified, except with the concurrence of the Director of the Office of Management and Budget and in consultation with the impacted agency.

"3598. Major incident definition

"(a) In General.—Not later than 180 days after the date of enactment of the Federal Information Security Modernization Act of 2021, the Director, in coordination with the Director of the Cybersecurity and Infrastructure Security Agency and the National Cyber Director, shall develop and promulgate guidance on the definition of the term 'major incident' for the purposes of subchapter II and this subchapter.

"(b) Requirements.—With respect to the guidance issued under subsection (a), the definition of the term 'major incident' shall—

"(1) include, with respect to any information collected or maintained by or on behalf of an agency or an information system used or operated by an agency or by a contractor of an agency or another organization on behalf of an agency—

"(A) any incident the head of the agency determines is likely to have an impact on—

"(i) the national security, homeland security, or economic security of the United States; or

"(ii) the civil liberties or public health and safety of the people of the United States;

"(B) any incident the head of the agency determines likely to result in an inability for the agency, a component of the agency, or the Federal Government, to provide 1 or more critical services;

"(C) any incident that the head of an agency, in consultation with a senior privacy

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officer of the agency, determines is likely to have a significant privacy impact on 1 or more individual;

"(D) any incident that the head of the agency, in consultation with a senior privacy official of the agency, determines is likely to have a substantial privacy impact on a significant number of individuals;

"(E) any incident the head of the agency determines impacts the operations of a high value asset owned or operated by the agency;

"(F) any incident involving the exposure of sensitive agency information to a foreign entity, such as the communications of the head of the agency, the head of a component of the agency, or the direct reports of the head of the agency or the head of a component of the agency; and

"(G) any other type of incident determined appropriate by the Director;

"(2) stipulate that the National Cyber Director shall declare a major incident at each agency impacted by an incident if the Director of the Cybersecurity and Infrastructure Security Agency determines that an incident—

"(A) occurs at not less than 2 agencies; and

"(B) is enabled by—

"(i) a common technical root cause, such as a supply chain compromise, a common software or hardware vulnerability; or

"(ii) the related activities of a common threat actor; and

"(3) stipulate that, in determining whether an incident constitutes a major incident because that incident—

"(A) is any incident described in paragraph (1), the head of an agency shall consult with the Director of the Cybersecurity and Infrastructure Security Agency;

"(B) is an incident described in paragraph (1)(A), the head of the agency shall consult with the National Cyber Director; and

"(C) is an incident described in subparagraph (C) or (D) of paragraph (1), the head of the agency shall consult with—

"(i) the Privacy and Civil Liberties Oversight Board; and

"(ii) the Chair of the Federal Trade Commission.

"(c) Significant Number of Individuals.—In determining what constitutes a significant number of individuals under subsection (b)(1)(D), the Director—

"(1) may determine a threshold for a minimum number of individuals that constitutes a significant amount; and

"(2) may not determine a threshold described in paragraph (1) that exceeds 5,000 individuals.

"(d) Evaluation and Updates.—Not later than 2 years after the date of enactment of the Federal Information Security Modernization Act of 2021, and not less frequently than every 2 years

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thereafter, the Director shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Reform of the House of Representatives an evaluation, which shall include—

"(1) an update, if necessary, to the guidance issued under subsection (a);

"(2) the definition of the term 'major incident' included in the guidance issued under subsection (a); and

"(3) an explanation of, and the analysis that led to, the definition described in paragraph (2).".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 35 of title 44, United States Code, is amended by adding at the end the following:

"subchapter iv—federal system incident response

"3591. Definitions.

"3592. Notification of breach.

"3593. Congressional and Executive Branch reports.

"3594. Government information sharing and incident response.

"3595. Responsibilities of contractors and awardees.

"3596. Training.

"3597. Analysis and report on Federal incidents.

"3598. Major incident definition.".

SEC. 5122. AMENDMENTS TO SUBTITLE III OF TITLE 40.

(a) Information Technology Modernization Centers of Excellence Program Act.—Section 2(c)(4)(A)(ii) of the Information Technology Modernization Centers of Excellence Program Act (40 U.S.C. 11301 note) is amended by striking the period at the end and inserting ", which shall be provided in coordination with the Director of the Cybersecurity and Infrastructure Security Agency.".

(b) Modernizing Government Technology.—Subtitle G of title X of Division A of the National Defense Authorization Act for Fiscal Year 2018 (40 U.S.C. 11301 note) is amended—

(1) in section 1077(b)—

(A) in paragraph (5)(A), by inserting "improving the cybersecurity of systems and" before "cost savings activities"; and

(B) in paragraph (7)—

(i) in the paragraph heading, by striking "CIO" and inserting "CIO";

(ii) by striking "In evaluating projects" and inserting the following:

"(A) CONSIDERATION OF GUIDANCE.—In evaluating projects";

(iii) in subparagraph (A), as so designated, by striking "under section

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1094(b)(1)" and inserting "by the Director"; and

(iv) by adding at the end the following:

"(B) CONSULTATION.—In using funds under paragraph (3)(A), the Chief Information Officer of the covered agency shall consult with the necessary stakeholders to ensure the project appropriately addresses cybersecurity risks, including the Director of the Cybersecurity and Infrastructure Security Agency, as appropriate."; and

(2) in section 1078—

(A) by striking subsection (a) and inserting the following:

"(a) Definitions.—In this section:

"(1) AGENCY.—The term 'agency' has the meaning given the term in section 551 of title 5, United States Code.

"(2) HIGH VALUE ASSET.—The term 'high value asset' has the meaning given the term in section 3552 of title 44, United States Code.";

(B) in subsection (b), by adding at the end the following:

"(8) PROPOSAL EVALUATION.—The Director shall—

"(A) give consideration for the use of amounts in the Fund to improve the security of high value assets; and

"(B) require that any proposal for the use of amounts in the Fund includes a cybersecurity plan, including a supply chain risk management plan, to be reviewed by the member of the Technology Modernization Board described in subsection (c)(5)(C)."; and

(C) in subsection (c)—

(i) in paragraph (2)(A)(i), by inserting ", including a consideration of the impact on high value assets" after "operational risks";

(ii) in paragraph (5)—

(I) in subparagraph (A), by striking "and" at the end;

(II) in subparagraph (B), by striking the period at the end and inserting "and"; and

(III) by adding at the end the following:

"(C) a senior official from the Cybersecurity and Infrastructure Security Agency of the Department of Homeland Security, appointed by the Director."; and

(iii) in paragraph (6)(A), by striking "shall be—" and all that follows through "4 employees" and inserting "shall be 4 employees".

(c) Subchapter I.—Subchapter I of subtitle III of title 40, United States Code, is amended—

(1) in section 11302—

(A) in subsection (b), by striking "use, security, and disposal of" and inserting "use,

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and disposal of, and, in consultation with the Director of the Cybersecurity and Infrastructure Security Agency and the National Cyber Director, promote and improve the security of,";

(B) in subsection (c)—

(i) in paragraph (3)—

(I) in subparagraph (A)—

(aa) by striking "including data" and inserting "which shall—

"(i) include data";

(bb) in clause (i), as so designated, by striking ", and performance" and inserting "security, and performance; and"; and

(cc) by adding at the end the following:

"(ii) specifically denote cybersecurity funding under the risk-based cyber budget model developed pursuant to section 3553(a)(7) of title 44."; and

(II) in subparagraph (B), adding at the end the following:

"(iii) The Director shall provide to the National Cyber Director any cybersecurity funding information described in subparagraph (A)(ii) that is provided to the Director under clause (ii) of this subparagraph."; and

(ii) in paragraph (4)(B), in the matter preceding clause (i), by inserting "not later than 30 days after the date on which the review under subparagraph (A) is completed," before "the Administrator";

(C) in subsection (f)—

(i) by striking "heads of executive agencies to develop" and inserting "heads of executive agencies to—

"(1) develop";

(ii) in paragraph (1), as so designated, by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(2) consult with the Director of the Cybersecurity and Infrastructure Security Agency for the development and use of supply chain security best practices."; and

(D) in subsection (h), by inserting ", including cybersecurity performances," after "the performances"; and

(2) in section 11303(b)—

(A) in paragraph (2)(B)—

(i) in clause (i), by striking "or" at the end;

(ii) in clause (ii), by adding "or" at the end; and

(iii) by adding at the end the following:

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"(iii) whether the function should be performed by a shared service offered by another executive agency;"; and

(B) in paragraph (5)(B)(i), by inserting ", while taking into account the risk-based cyber budget model developed pursuant to section 3553(a)(7) of title 44" after "title 31".

(d) Subchapter II.—Subchapter II of subtitle III of title 40, United States Code, is amended—

(1) in section 11312(a), by inserting ", including security risks" after "managing the risks";

(2) in section 11313(1), by striking "efficiency and effectiveness" and inserting "efficiency, security, and effectiveness";

(3) in section 11315, by adding at the end the following:

"(d) Component Agency Chief Information Officers.—The Chief Information Officer or an equivalent official of a component agency shall report to—

"(1) the Chief Information Officer designated under section 3506(a)(2) of title 44 or an equivalent official of the agency of which the component agency is a component; and

"(2) the head of the component agency.";

(4) in section 11317, by inserting "security," before "or schedule"; and

(5) in section 11319(b)(1), in the paragraph heading, by striking "CIOS" and inserting "CHIEF INFORMATION OFFICERS".

(e) Subchapter III.—Section 11331 of title 40, United States Code, is amended—

(1) in subsection (a), by striking "section 3532(b)(1)" and inserting "section 3552(b)";

(2) in subsection (b)(1)(A)—

(A) by striking "in consultation" and inserting "in coordination"; and

(B) by striking "the Secretary of Homeland Security" and inserting "the Director of the Cybersecurity and Infrastructure Security Agency";

(3) by striking subsection (c) and inserting the following:

"(c) Application of More Stringent Standards.—

"(1) IN GENERAL.—The head of an agency shall—

"(A) evaluate, in consultation with the senior agency information security officers, the need to employ standards for cost-effective, risk-based information security for all systems, operations, and assets within or under the supervision of the agency that are more stringent than the standards promulgated by the Director under this section, if such standards contain, at a minimum, the provisions of those applicable standards made compulsory and binding by the Director; and

"(B) to the greatest extent practicable and if the head of the agency determines that the standards described in subparagraph (A) are necessary, employ those standards.

"(2) EVALUATION OF MORE STRINGENT STANDARDS.—In evaluating the need to employ

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more stringent standards under paragraph (1), the head of an agency shall consider available risk information, such as—

"(A) the status of cybersecurity remedial actions of the agency;

"(B) any vulnerability information relating to agency systems that is known to the agency;

"(C) incident information of the agency;

"(D) information from—

"(i) penetration testing performed under section 3559A of title 44; and

"(ii) information from the vulnerability disclosure program established under section 3559B of title 44;

"(E) agency threat hunting results under section 5145 of the Federal Information Security Modernization Act of 2021;

"(F) Federal and non-Federal threat intelligence;

"(G) data on compliance with standards issued under this section;

"(H) agency system risk assessments performed under section 3554(a)(1)(A) of title 44; and

"(I) any other information determined relevant by the head of the agency.";

(4) in subsection (d)(2)—

(A) in the paragraph heading, by striking "NOTICE AND COMMENT" and inserting "CONSULTATION, NOTICE, AND COMMENT";

(B) by inserting "promulgate," before "significantly modify"; and

(C) by striking "shall be made after the public is given an opportunity to comment on the Director's proposed decision." and inserting "shall be made—

"(A) for a decision to significantly modify or not promulgate such a proposed standard, after the public is given an opportunity to comment on the Director's proposed decision;

"(B) in consultation with the Chief Information Officers Council, the Director of the Cybersecurity and Infrastructure Security Agency, the National Cyber Director, the Comptroller General of the United States, and the Council of the Inspectors General on Integrity and Efficiency;

"(C) considering the Federal risk assessments performed under section 3553(i) of title 44; and

"(D) considering the extent to which the proposed standard reduces risk relative to the cost of implementation of the standard."; and

(5) by adding at the end the following:

"(e) Review of Office of Management and Budget Guidance and Policy.—

"(1) CONDUCT OF REVIEW.—

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"(A) IN GENERAL.—Not less frequently than once every 3 years, the Director of the Office of Management and Budget, in consultation with the Chief Information Officers Council, the Director of the Cybersecurity and Infrastructure Security Agency, the National Cyber Director, the Comptroller General of the United States, and the Council of the Inspectors General on Integrity and Efficiency shall review the efficacy of the guidance and policy promulgated by the Director in reducing cybersecurity risks, including an assessment of the requirements for agencies to report information to the Director, and determine whether any changes to that guidance or policy is appropriate.

"(B) FEDERAL RISK ASSESSMENTS.—In conducting the review described in subparagraph (A), the Director shall consider the Federal risk assessments performed under section 3553(i) of title 44.

"(2) UPDATED GUIDANCE.—Not later than 90 days after the date on which a review is completed under paragraph (1), the Director of the Office of Management and Budget shall issue updated guidance or policy to agencies determined appropriate by the Director, based on the results of the review.

"(3) PUBLIC REPORT.—Not later than 30 days after the date on which a review is completed under paragraph (1), the Director of the Office of Management and Budget shall make publicly available a report that includes—

"(A) an overview of the guidance and policy promulgated under this section that is currently in effect;

"(B) the cybersecurity risk mitigation, or other cybersecurity benefit, offered by each guidance or policy document described in subparagraph (A); and

"(C) a summary of the guidance or policy to which changes were determined appropriate during the review and what the changes are anticipated to include.

"(4) CONGRESSIONAL BRIEFING.—Not later than 30 days after the date on which a review is completed under paragraph (1), the Director shall provide to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Reform of the House of Representatives a briefing on the review.

"(f) Automated Standard Implementation Verification.—When the Director of the National Institute of Standards and Technology issues a proposed standard pursuant to paragraphs (2) and (3) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(a)), the Director of the National Institute of Standards and Technology shall consider developing and, if appropriate and practical, develop, in consultation with the Director of the Cybersecurity and Infrastructure Security Agency, specifications to enable the automated verification of the implementation of the controls within the standard.".

SEC. 5123. ACTIONS TO ENHANCE FEDERAL INCIDENT RESPONSE.

(a) Responsibilities of the Cybersecurity and Infrastructure Security Agency.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director of the Cybersecurity and Infrastructure Security Agency shall—

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(A) develop a plan for the development of the analysis required under section 3597(a) of title 44, United States Code, as added by this division, and the report required under subsection (b) of that section that includes—

(i) a description of any challenges the Director anticipates encountering; and

(ii) the use of automation and machine-readable formats for collecting, compiling, monitoring, and analyzing data; and

(B) provide to the appropriate congressional committees a briefing on the plan developed under subparagraph (A).

(2) BRIEFING.—Not later than 1 year after the date of enactment of this Act, the Director of the Cybersecurity and Infrastructure Security Agency shall provide to the appropriate congressional committees a briefing on—

(A) the execution of the plan required under paragraph (1)(A); and

(B) the development of the report required under section 3597(b) of title 44, United States Code, as added by this division.

(b) Responsibilities of the Director of the Office of Management and Budget.—

(1) FISMA.—Section 2 of the Federal Information Security Modernization Act of 2014 (44 U.S.C. 3554 note) is amended—

(A) by striking subsection (b); and

(B) by redesignating subsections (c) through (f) as subsections (b) through (e), respectively.

(2) INCIDENT DATA SHARING.—

(A) IN GENERAL.—The Director shall develop guidance, to be updated not less frequently than once every 2 years, on the content, timeliness, and format of the information provided by agencies under section 3594(a) of title 44, United States Code, as added by this division.

(B) REQUIREMENTS.—The guidance developed under subparagraph (A) shall—

(i) prioritize the availability of data necessary to understand and analyze—

(I) the causes of incidents;

(II) the scope and scale of incidents within the environments and systems of an agency;

(III) a root cause analysis of incidents that—

(aa) are common across the Federal Government; or

(bb) have a Government-wide impact;

(IV) agency response, recovery, and remediation actions and the effectiveness of those actions; and

(V) the impact of incidents;

(ii) enable the efficient development of—

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(I) lessons learned and recommendations in responding to, recovering from, remediating, and mitigating future incidents; and

(II) the report on Federal incidents required under section 3597(b) of title 44, United States Code, as added by this division;

(iii) include requirements for the timeliness of data production; and

(iv) include requirements for using automation and machine-readable data for data sharing and availability.

(3) GUIDANCE ON RESPONDING TO INFORMATION REQUESTS.—Not later than 1 year after the date of enactment of this Act, the Director shall develop guidance for agencies to implement the requirement under section 3594(c) of title 44, United States Code, as added by this division, to provide information to other agencies experiencing incidents.

(4) STANDARD GUIDANCE AND TEMPLATES.—Not later than 1 year after the date of enactment of this Act, the Director, in consultation with the Director of the Cybersecurity and Infrastructure Security Agency, shall develop guidance and templates, to be reviewed and, if necessary, updated not less frequently than once every 2 years, for use by Federal agencies in the activities required under sections 3592, 3593, and 3596 of title 44, United States Code, as added by this division.

(5) CONTRACTOR AND AWARDEE GUIDANCE.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Director, in coordination with the Secretary of Homeland Security, the Secretary of Defense, the Administrator of General Services, and the heads of other agencies determined appropriate by the Director, shall issue guidance to Federal agencies on how to deconflict, to the greatest extent practicable, existing regulations, policies, and procedures relating to the responsibilities of contractors and awardees established under section 3595 of title 44, United States Code, as added by this division.

(B) EXISTING PROCESSES.—To the greatest extent practicable, the guidance issued under subparagraph (A) shall allow contractors and awardees to use existing processes for notifying Federal agencies of incidents involving information of the Federal Government.

(6) UPDATED BRIEFINGS.—Not less frequently than once every 2 years, the Director shall provide to the appropriate congressional committees an update on the guidance and templates developed under paragraphs (2) through (4).

(c) Update to the Privacy Act of 1974.—Section 552a(b) of title 5, United States Code (commonly known as the "Privacy Act of 1974") is amended—

(1) in paragraph (11), by striking "or" at the end;

(2) in paragraph (12), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(13) to another agency in furtherance of a response to an incident (as defined in section 3552 of title 44) and pursuant to the information sharing requirements in section 3594 of title 44 if the head of the requesting agency has made a written request to the agency that

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maintains the record specifying the particular portion desired and the activity for which the record is sought.".

SEC. 5124. ADDITIONAL GUIDANCE TO AGENCIES ON FISMA UPDATES.

Not later than 1 year after the date of enactment of this Act, the Director, in coordination with the Director of the Cybersecurity and Infrastructure Security Agency, shall issue guidance for agencies on—

(1) performing the ongoing and continuous agency system risk assessment required under section 3554(a)(1)(A) of title 44, United States Code, as amended by this division;

(2) implementing additional cybersecurity procedures, which shall include resources for shared services;

(3) establishing a process for providing the status of each remedial action under section 3554(b)(7) of title 44, United States Code, as amended by this division, to the Director and the Cybersecurity and Infrastructure Security Agency using automation and machine-readable data, as practicable, which shall include—

(A) specific guidance for the use of automation and machine-readable data; and

(B) templates for providing the status of the remedial action;

(4) interpreting the definition of "high value asset" under section 3552 of title 44, United States Code, as amended by this division; and

(5) a requirement to coordinate with inspectors general of agencies to ensure consistent understanding and application of agency policies for the purpose of evaluations by inspectors general.

SEC. 5125. AGENCY REQUIREMENTS TO NOTIFY PRIVATE SECTOR ENTITIES IMPACTED BY INCIDENTS.

(a) Definitions.—In this section:

(1) REPORTING ENTITY.—The term "reporting entity" means private organization or governmental unit that is required by statute or regulation to submit sensitive information to an agency.

(2) SENSITIVE INFORMATION.—The term "sensitive information" has the meaning given the term by the Director in guidance issued under subsection (b).

(b) Guidance on Notification of Reporting Entities.—Not later than 180 days after the date of enactment of this Act, the Director shall issue guidance requiring the head of each agency to notify a reporting entity of an incident that is likely to substantially affect—

(1) the confidentiality or integrity of sensitive information submitted by the reporting entity to the agency pursuant to a statutory or regulatory requirement; or

(2) the agency information system or systems used in the transmission or storage of the sensitive information described in paragraph (1).

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TITLE LII—IMPROVING FEDERAL CYBERSECURITY

SEC. 5141. MOBILE SECURITY STANDARDS.

(a) In General.—Not later than 1 year after the date of enactment of this Act, the Director shall—

(1) evaluate mobile application security guidance promulgated by the Director; and

(2) issue guidance to secure mobile devices, including for mobile applications, for every agency.

(b) Contents.—The guidance issued under subsection (a)(2) shall include—

(1) a requirement, pursuant to section 3506(b)(4) of title 44, United States Code, for every agency to maintain a continuous inventory of every—

(A) mobile device operated by or on behalf of the agency; and

(B) vulnerability identified by the agency associated with a mobile device; and

(2) a requirement for every agency to perform continuous evaluation of the vulnerabilities described in paragraph (1)(B) and other risks associated with the use of applications on mobile devices.

(c) Information Sharing.—The Director, in coordination with the Director of the Cybersecurity and Infrastructure Security Agency, shall issue guidance to agencies for sharing the inventory of the agency required under subsection (b)(1) with the Director of the Cybersecurity and Infrastructure Security Agency, using automation and machine-readable data to the greatest extent practicable.

(d) Briefing.—Not later than 60 days after the date on which the Director issues guidance under subsection (a)(2), the Director, in coordination with the Director of the Cybersecurity and Infrastructure Security Agency, shall provide to the appropriate congressional committees a briefing on the guidance.

SEC. 5142. DATA AND LOGGING RETENTION FOR INCIDENT RESPONSE.

(a) Recommendations.—Not later than 2 years after the date of enactment of this Act, and not less frequently than every 2 years thereafter, the Director of the Cybersecurity and Infrastructure Security Agency, in consultation with the Attorney General, shall submit to the Director recommendations on requirements for logging events on agency systems and retaining other relevant data within the systems and networks of an agency.

(b) Contents.—The recommendations provided under subsection (a) shall include—

(1) the types of logs to be maintained;

(2) the time periods to retain the logs and other relevant data;

(3) the time periods for agencies to enable recommended logging and security requirements;

(4) how to ensure the confidentiality, integrity, and availability of logs;

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(5) requirements to ensure that, upon request, in a manner that excludes or otherwise reasonably protects personally identifiable information, and to the extent permitted by applicable law (including privacy and statistical laws), agencies provide logs to—

(A) the Director of the Cybersecurity and Infrastructure Security Agency for a cybersecurity purpose; and

(B) the Federal Bureau of Investigation to investigate potential criminal activity; and

(6) requirements to ensure that, subject to compliance with statistical laws and other relevant data protection requirements, the highest level security operations center of each agency has visibility into all agency logs.

(c) Guidance.—Not later than 90 days after receiving the recommendations submitted under subsection (a), the Director, in consultation with the Director of the Cybersecurity and Infrastructure Security Agency and the Attorney General, shall, as determined to be appropriate by the Director, update guidance to agencies regarding requirements for logging, log retention, log management, sharing of log data with other appropriate agencies, or any other logging activity determined to be appropriate by the Director.

SEC. 5143. CISA AGENCY ADVISORS.

(a) In General.—Not later than 120 days after the date of enactment of this Act, the Director of the Cybersecurity and Infrastructure Security Agency shall assign not less than 1 cybersecurity professional employed by the Cybersecurity and Infrastructure Security Agency to be the Cybersecurity and Infrastructure Security Agency advisor to the senior agency information security officer of each agency.

(b) Qualifications.—Each advisor assigned under subsection (a) shall have knowledge of—

(1) cybersecurity threats facing agencies, including any specific threats to the assigned agency;

(2) performing risk assessments of agency systems; and

(3) other Federal cybersecurity initiatives.

(c) Duties.—The duties of each advisor assigned under subsection (a) shall include—

(1) providing ongoing assistance and advice, as requested, to the agency Chief Information Officer;

(2) serving as an incident response point of contact between the assigned agency and the Cybersecurity and Infrastructure Security Agency; and

(3) familiarizing themselves with agency systems, processes, and procedures to better facilitate support to the agency in responding to incidents.

(d) Limitation.—An advisor assigned under subsection (a) shall not be a contractor.

(e) Multiple Assignments.—One individual advisor may be assigned to multiple agency Chief Information Officers under subsection (a).

SEC. 5144. FEDERAL PENETRATION TESTING POLICY.

(a) In General.—Subchapter II of chapter 35 of title 44, United States Code, is amended by

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adding at the end the following:

"3559A. Federal penetration testing

"(a) Definitions.—In this section:

"(1) AGENCY OPERATIONAL PLAN.—The term 'agency operational plan' means a plan of an agency for the use of penetration testing.

"(2) RULES OF ENGAGEMENT.—The term 'rules of engagement' means a set of rules established by an agency for the use of penetration testing.

"(b) Guidance.—

"(1) IN GENERAL.—The Director shall issue guidance that—

"(A) requires agencies to use, when and where appropriate, penetration testing on agency systems; and

"(B) requires agencies to develop an agency operational plan and rules of engagement that meet the requirements under subsection (c).

"(2) PENETRATION TESTING GUIDANCE.—The guidance issued under this section shall—

"(A) permit an agency to use, for the purpose of performing penetration testing—

"(i) a shared service of the agency or another agency; or

"(ii) an external entity, such as a vendor; and

"(B) require agencies to provide the rules of engagement and results of penetration testing to the Director and the Director of the Cybersecurity and Infrastructure Security Agency, without regard to the status of the entity that performs the penetration testing.

"(c) Agency Plans and Rules of Engagement.—The agency operational plan and rules of engagement of an agency shall—

"(1) require the agency to—

"(A) perform penetration testing on the high value assets of the agency; or

"(B) coordinate with the Director of the Cybersecurity and Infrastructure Security Agency to ensure that penetration testing is being performed;

"(2) establish guidelines for avoiding, as a result of penetration testing—

"(A) adverse impacts to the operations of the agency;

"(B) adverse impacts to operational environments and systems of the agency; and

"(C) inappropriate access to data;

"(3) require the results of penetration testing to include feedback to improve the cybersecurity of the agency; and

"(4) include mechanisms for providing consistently formatted, and, if applicable, automated and machine-readable, data to the Director and the Director of the Cybersecurity and Infrastructure Security Agency.

"(d) Responsibilities of CISA.—The Director of the Cybersecurity and Infrastructure Security

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Agency shall—

"(1) establish a process to assess the performance of penetration testing by both Federal and non-Federal entities that establishes minimum quality controls for penetration testing;

"(2) develop operational guidance for instituting penetration testing programs at agencies;

"(3) develop and maintain a centralized capability to offer penetration testing as a service to Federal and non-Federal entities; and

"(4) provide guidance to agencies on the best use of penetration testing resources.

"(e) Responsibilities of OMB.—The Director, in coordination with the Director of the Cybersecurity and Infrastructure Security Agency, shall—

"(1) not less frequently than annually, inventory all Federal penetration testing assets; and

"(2) develop and maintain a standardized process for the use of penetration testing.

"(f) Prioritization of Penetration Testing Resources.—

"(1) IN GENERAL.—The Director, in coordination with the Director of the Cybersecurity and Infrastructure Security Agency, shall develop a framework for prioritizing Federal penetration testing resources among agencies.

"(2) CONSIDERATIONS.—In developing the framework under this subsection, the Director shall consider—

"(A) agency system risk assessments performed under section 3554(a)(1)(A);

"(B) the Federal risk assessment performed under section 3553(i);

"(C) the analysis of Federal incident data performed under section 3597; and

"(D) any other information determined appropriate by the Director or the Director of the Cybersecurity and Infrastructure Security Agency.

"(g) Exception for National Security Systems.—The guidance issued under subsection (b) shall not apply to national security systems.

"(h) Delegation of Authority for Certain Systems.—The authorities of the Director described in subsection (b) shall be delegated—

"(1) to the Secretary of Defense in the case of systems described in section 3553(e)(2); and

"(2) to the Director of National Intelligence in the case of systems described in 3553(e)(3).".

(b) Deadline for Guidance.—Not later than 180 days after the date of enactment of this Act, the Director shall issue the guidance required under section 3559A(b) of title 44, United States Code, as added by subsection (a).

(c) Clerical Amendment.—The table of sections for chapter 35 of title 44, United States Code, is amended by adding after the item relating to section 3559 the following:

"3559A. Federal penetration testing.".

(d) Penetration Testing by the Secretary of Homeland Security.—Section 3553(b) of title 44,

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United States Code, as amended by section 5121, is further amended—

(1) in paragraph (8)(B), by striking "and" at the end;

(2) by redesignating paragraph (9) as paragraph (10); and

(3) by inserting after paragraph (8) the following:

"(9) performing penetration testing with or without advance notice to, or authorization from, agencies, to identify vulnerabilities within Federal information systems; and".

SEC. 5145. ONGOING THREAT HUNTING PROGRAM.

(a) Threat Hunting Program.—

(1) IN GENERAL.—Not later than 540 days after the date of enactment of this Act, the Director of the Cybersecurity and Infrastructure Security Agency shall establish a program to provide ongoing, hypothesis-driven threat-hunting services on the network of each agency.

(2) PLAN.—Not later than 180 days after the date of enactment of this Act, the Director of the Cybersecurity and Infrastructure Security Agency shall develop a plan to establish the program required under paragraph (1) that describes how the Director of the Cybersecurity and Infrastructure Security Agency plans to—

(A) determine the method for collecting, storing, accessing, and analyzing appropriate agency data;

(B) provide on-premises support to agencies;

(C) staff threat hunting services;

(D) allocate available human and financial resources to implement the plan; and

(E) provide input to the heads of agencies on the use of—

(i) more stringent standards under section 11331(c)(1) of title 40, United States Code; and

(ii) additional cybersecurity procedures under section 3554 of title 44, United States Code.

(b) Reports.—The Director of the Cybersecurity and Infrastructure Security Agency shall submit to the appropriate congressional committees—

(1) not later than 30 days after the date on which the Director of the Cybersecurity and Infrastructure Security Agency completes the plan required under subsection (a)(2), a report on the plan to provide threat hunting services to agencies;

(2) not less than 30 days before the date on which the Director of the Cybersecurity and Infrastructure Security Agency begins providing threat hunting services under the program under subsection (a)(1), a report providing any updates to the plan developed under subsection (a)(2); and

(3) not later than 1 year after the date on which the Director of the Cybersecurity and Infrastructure Security Agency begins providing threat hunting services to agencies other than the Cybersecurity and Infrastructure Security Agency, a report describing lessons

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learned from providing those services.

SEC. 5146. CODIFYING VULNERABILITY DISCLOSURE PROGRAMS.

(a) In General.—Chapter 35 of title 44, United States Code, is amended by inserting after section 3559A, as added by section 5144 of this division, the following:

"3559B. Federal vulnerability disclosure programs

"(a) Definitions.—In this section:

"(1) REPORT.—The term 'report' means a vulnerability disclosure made to an agency by a reporter.

"(2) REPORTER.—The term 'reporter' means an individual that submits a vulnerability report pursuant to the vulnerability disclosure process of an agency.

"(b) Responsibilities of OMB.—

"(1) LIMITATION ON LEGAL ACTION.—The Director, in consultation with the Attorney General, shall issue guidance to agencies to not recommend or pursue legal action against a reporter or an individual that conducts a security research activity that the head of the agency determines—

"(A) represents a good faith effort to follow the vulnerability disclosure policy of the agency developed under subsection (d)(2); and

"(B) is authorized under the vulnerability disclosure policy of the agency developed under subsection (d)(2).

"(2) SHARING INFORMATION WITH CISA.—The Director, in coordination with the Director of the Cybersecurity and Infrastructure Security Agency and the National Cyber Director, shall issue guidance to agencies on sharing relevant information in a consistent, automated, and machine readable manner with the Cybersecurity and Infrastructure Security Agency, including—

"(A) any valid or credible reports of newly discovered or not publicly known vulnerabilities (including misconfigurations) on Federal information systems that use commercial software or services;

"(B) information relating to vulnerability disclosure, coordination, or remediation activities of an agency, particularly as those activities relate to outside organizations—

"(i) with which the head of the agency believes the Director of the Cybersecurity and Infrastructure Security Agency can assist; or

"(ii) about which the head of the agency believes the Director of the Cybersecurity and Infrastructure Security Agency should know; and

"(C) any other information with respect to which the head of the agency determines helpful or necessary to involve the Cybersecurity and Infrastructure Security Agency.

"(3) AGENCY VULNERABILITY DISCLOSURE POLICIES.—The Director shall issue guidance to agencies on the required minimum scope of agency systems covered by the vulnerability

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disclosure policy of an agency required under subsection (d)(2).

"(c) Responsibilities of CISA.—The Director of the Cybersecurity and Infrastructure Security Agency shall—

"(1) provide support to agencies with respect to the implementation of the requirements of this section;

"(2) develop tools, processes, and other mechanisms determined appropriate to offer agencies capabilities to implement the requirements of this section; and

"(3) upon a request by an agency, assist the agency in the disclosure to vendors of newly identified vulnerabilities in vendor products and services.

"(d) Responsibilities of Agencies.—

"(1) PUBLIC INFORMATION.—The head of each agency shall make publicly available, with respect to each internet domain under the control of the agency that is not a national security system—

"(A) an appropriate security contact; and

"(B) the component of the agency that is responsible for the internet accessible services offered at the domain.

"(2) VULNERABILITY DISCLOSURE POLICY.—The head of each agency shall develop and make publicly available a vulnerability disclosure policy for the agency, which shall—

"(A) describe—

"(i) the scope of the systems of the agency included in the vulnerability disclosure policy;

"(ii) the type of information system testing that is authorized by the agency;

"(iii) the type of information system testing that is not authorized by the agency; and

"(iv) the disclosure policy of the agency for sensitive information;

"(B) with respect to a report to an agency, describe—

"(i) how the reporter should submit the report; and

"(ii) if the report is not anonymous, when the reporter should anticipate an acknowledgment of receipt of the report by the agency;

"(C) include any other relevant information; and

"(D) be mature in scope, to cover all Federal information systems used or operated by that agency or on behalf of that agency.

"(3) IDENTIFIED VULNERABILITIES.—The head of each agency shall incorporate any vulnerabilities reported under paragraph (2) into the vulnerability management process of the agency in order to track and remediate the vulnerability.

"(e) Paperwork Reduction Act Exemption.—The requirements of subchapter I (commonly known as the 'Paperwork Reduction Act') shall not apply to a vulnerability disclosure program

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established under this section.

"(f) Congressional Reporting.—Not later than 90 days after the date of enactment of the Federal Information Security Modernization Act of 2021, and annually thereafter for a 3-year period, the Director shall provide to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Reform of the House of Representatives a briefing on the status of the use of vulnerability disclosure policies under this section at agencies, including, with respect to the guidance issued under subsection (b)(3), an identification of the agencies that are compliant and not compliant.

"(g) Exemptions.—The authorities and functions of the Director and Director of the Cybersecurity and Infrastructure Security Agency under this section shall not apply to national security systems.

"(h) Delegation of Authority for Certain Systems.—The authorities of the Director and the Director of the Cybersecurity and Infrastructure Security Agency described in this section shall be delegated—

"(1) to the Secretary of Defense in the case of systems described in section 3553(e)(2); and

"(2) to the Director of National Intelligence in the case of systems described in section 3553(e)(3).".

(b) Clerical Amendment.—The table of sections for chapter 35 of title 44, United States Code, is amended by adding after the item relating to section 3559A, as added by section 204, the following:

"3559B. Federal vulnerability disclosure programs.".

SEC. 5147. IMPLEMENTING PRESUMPTION OF COMPROMISE AND LEAST PRIVILEGE PRINCIPLES.

(a) Guidance.—Not later than 1 year after the date of enactment of this Act, the Director shall provide an update to the appropriate congressional committees on progress in increasing the internal defenses of agency systems, including—

(1) shifting away from "trusted networks" to implement security controls based on a presumption of compromise;

(2) implementing principles of least privilege in administering information security programs;

(3) limiting the ability of entities that cause incidents to move laterally through or between agency systems;

(4) identifying incidents quickly;

(5) isolating and removing unauthorized entities from agency systems quickly;

(6) otherwise increasing the resource costs for entities that cause incidents to be successful; and

(7) a summary of the agency progress reports required under subsection (b).

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(b) Agency Progress Reports.—Not later than 1 year after the date of enactment of this Act, the head of each agency shall submit to the Director a progress report on implementing an information security program based on the presumption of compromise and least privilege principles, which shall include—

(1) a description of any steps the agency has completed, including progress toward achieving requirements issued by the Director;

(2) an identification of activities that have not yet been completed and that would have the most immediate security impact; and

(3) a schedule to implement any planned activities.

SEC. 5148. AUTOMATION REPORTS.

(a) OMB Report.—Not later than 180 days after the date of enactment of this Act, the Director shall submit to the appropriate congressional committees a report on the use of automation under paragraphs (1), (5)(C) and (8)(B) of section 3554(b) of title 44, United States Code.

(b) GAO Report.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall perform a study on the use of automation and machine readable data across the Federal Government for cybersecurity purposes, including the automated updating of cybersecurity tools, sensors, or processes by agencies.

SEC. 5149. EXTENSION OF FEDERAL ACQUISITION SECURITY COUNCIL.

Section 1328 of title 41, United States Code, is amended by striking "the date that" and all that follows and inserting "December 31, 2026.".

SEC. 5150. COUNCIL OF THE INSPECTORS GENERAL ON INTEGRITY AND EFFICIENCY DASHBOARD.

(a) Dashboard Required.—Section 11(e)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following:

"(B) that shall include a dashboard of open information security recommendations identified in the independent evaluations required by section 3555(a) of title 44, United States Code; and".

SEC. 5151. QUANTITATIVE CYBERSECURITY METRICS.

(a) Definition of Covered Metrics.—In this section, the term "covered metrics" means the metrics established, reviewed, and updated under section 224(c) of the Cybersecurity Act of 2015 (6 U.S.C. 1522(c)).

(b) Updating and Establishing Metrics.—Not later than 1 year after the date of enactment of

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this Act, the Director of the Cybersecurity and Infrastructure Security Agency, in coordination with the Director, shall—

(1) evaluate any covered metrics established as of the date of enactment of this Act; and

(2) as appropriate and pursuant to section 224(c) of the Cybersecurity Act of 2015 (6 U.S.C. 1522(c))—

(A) update the covered metrics; and

(B) establish new covered metrics.

(c) Implementation.—

(1) IN GENERAL.—Not later than 540 days after the date of enactment of this Act, the Director, in coordination with the Director of the Cybersecurity and Infrastructure Security Agency, shall promulgate guidance that requires each agency to use covered metrics to track trends in the cybersecurity and incident response capabilities of the agency.

(2) PERFORMANCE DEMONSTRATION.—The guidance issued under paragraph (1) and any subsequent guidance shall require agencies to share with the Director of the Cybersecurity and Infrastructure Security Agency data demonstrating the performance of the agency using the covered metrics included in the guidance.

(3) PENETRATION TESTS.—On not less than 2 occasions during the 2-year period following the date on which guidance is promulgated under paragraph (1), the Director shall ensure that not less than 3 agencies are subjected to substantially similar penetration tests, as determined by the Director, in coordination with the Director of the Cybersecurity and Infrastructure Security Agency, in order to validate the utility of the covered metrics.

(4) ANALYSIS CAPACITY.—The Director of the Cybersecurity and Infrastructure Security Agency shall develop a capability that allows for the analysis of the covered metrics, including cross-agency performance of agency cybersecurity and incident response capability trends.

(d) Congressional Reports.—

(1) UTILITY OF METRICS.—Not later than 1 year after the date of enactment of this Act, the Director of the Cybersecurity and Infrastructure Security Agency shall submit to the appropriate congressional committees a report on the utility of the covered metrics.

(2) USE OF METRICS.—Not later than 180 days after the date on which the Director promulgates guidance under subsection (c)(1), the Director shall submit to the appropriate congressional committees a report on the results of the use of the covered metrics by agencies.

(e) Cybersecurity Act of 2015 Updates.—Section 224 of the Cybersecurity Act of 2015 (6 U.S.C. 1522) is amended—

(1) by striking subsection (c) and inserting the following:

"(c) Improved Metrics.—

"(1) IN GENERAL.—The Director of the Cybersecurity and Infrastructure Security Agency, in coordination with the Director, shall establish, review, and update metrics to measure the cybersecurity and incident response capabilities of agencies in accordance with

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the responsibilities of agencies under section 3554 of title 44, United States Code.

"(2) QUALITIES.—With respect to the metrics established, reviewed, and updated under paragraph (1)—

"(A) not less than 2 of the metrics shall be time-based, such as a metric of—

"(i) the amount of time it takes for an agency to detect an incident; and

"(ii) the amount of time that passes between—

"(I) the detection of an incident and the remediation of the incident; and

"(II) the remediation of an incident and the recovery from the incident; and

"(B) the metrics may include other measurable outcomes.";

(2) by striking subsection (e); and

(3) by redesignating subsection (f) as subsection (e).

TITLE LIII—RISK-BASED BUDGET MODEL

SEC. 5161. DEFINITIONS.

In this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on Homeland Security and Governmental Affairs and the Committee on Appropriations of the Senate; and

(B) the Committee on Homeland Security and the Committee on Appropriations of the House of Representatives.

(2) COVERED AGENCY.—The term "covered agency" has the meaning given the term "executive agency" in section 133 of title 41, United States Code.

(3) DIRECTOR.—The term "Director" means the Director of the Office of Management and Budget.

(4) INFORMATION TECHNOLOGY.—The term "information technology"—

(A) has the meaning given the term in section 11101 of title 40, United States Code; and

(B) includes the hardware and software systems of a Federal agency that monitor and control physical equipment and processes of the Federal agency.

(5) RISK-BASED BUDGET.—The term "risk-based budget" means a budget—

(A) developed by identifying and prioritizing cybersecurity risks and vulnerabilities, including impact on agency operations in the case of a cyber attack, through analysis of threat intelligence, incident data, and tactics, techniques, procedures, and capabilities of cyber threats; and

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(B) that allocates resources based on the risks identified and prioritized under subparagraph (A).

SEC. 5162. ESTABLISHMENT OF RISK-BASED BUDGET MODEL.

(a) In General.—

(1) MODEL.—Not later than 1 year after the first publication of the budget submitted by the President under section 1105 of title 31, United States Code, following the date of enactment of this Act, the Director, in consultation with the Director of the Cybersecurity and Infrastructure Security Agency and the National Cyber Director and in coordination with the Director of the National Institute of Standards and Technology, shall develop a standard model for creating a risk-based budget for cybersecurity spending.

(2) RESPONSIBILITY OF DIRECTOR.—Section 3553(a) of title 44, United States Code, as amended by section 5121 of this division, is further amended by inserting after paragraph (6) the following:

"(7) developing a standard risk-based budget model to inform Federal agency cybersecurity budget development; and".

(3) CONTENTS OF MODEL.—The model required to be developed under paragraph (1) shall—

(A) consider Federal and non-Federal cyber threat intelligence products, where available, to identify threats, vulnerabilities, and risks;

(B) consider the impact of agency operations of compromise of systems, including the interconnectivity to other agency systems and the operations of other agencies;

(C) indicate where resources should be allocated to have the greatest impact on mitigating current and future threats and current and future cybersecurity capabilities;

(D) be used to inform acquisition and sustainment of—

(i) information technology and cybersecurity tools;

(ii) information technology and cybersecurity architectures;

(iii) information technology and cybersecurity personnel; and

(iv) cybersecurity and information technology concepts of operations; and

(E) be used to evaluate and inform Government-wide cybersecurity programs of the Department of Homeland Security.

(4) REQUIRED UPDATES.—Not less frequently than once every 3 years, the Director shall review, and update as necessary, the model required to be developed under this subsection.

(5) PUBLICATION.—The Director shall publish the model required to be developed under this subsection, and any updates necessary under paragraph (4), on the public website of the Office of Management and Budget.

(6) REPORTS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter for each of the 2 following fiscal years or until the date on which the model

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required to be developed under this subsection is completed, whichever is sooner, the Director shall submit a report to Congress on the development of the model.

(b) Required Use of Risk-based Budget Model.—

(1) IN GENERAL.—Not later than 2 years after the date on which the model developed under subsection (a) is published, the head of each covered agency shall use the model to develop the annual cybersecurity and information technology budget requests of the agency.

(2) AGENCY PERFORMANCE PLANS.—Section 3554(d)(2) of title 44, United States Code, is amended by inserting "and the risk-based budget model required under section 3553(a)(7)" after "paragraph (1)".

(c) Verification.—

(1) IN GENERAL.—Section 1105(a)(35)(A)(i) of title 31, United States Code, is amended—

(A) in the matter preceding subclause (I), by striking "by agency, and by initiative area (as determined by the administration)" and inserting "and by agency";

(B) in subclause (III), by striking "and" at the end; and

(C) by adding at the end the following:

"(V) a validation that the budgets submitted were developed using a risk-based methodology; and

"(VI) a report on the progress of each agency on closing recommendations identified under the independent evaluation required by section 3555(a)(1) of title 44.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date that is 2 years after the date on which the model developed under subsection (a) is published.

(d) Reports.—

(1) INDEPENDENT EVALUATION.—Section 3555(a)(2) of title 44, United States Code, is amended—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(D) an assessment of how the agency implemented the risk-based budget model required under section 3553(a)(7) and an evaluation of whether the model mitigates agency cyber vulnerabilities.".

(2) ASSESSMENT.—Section 3553(c) of title 44, United States Code, as amended by section 5121, is further amended by inserting after paragraph (5) the following:

"(6) an assessment of—

"(A) Federal agency implementation of the model required under subsection (a)(7);

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"(B) how cyber vulnerabilities of Federal agencies changed from the previous year; and

"(C) whether the model mitigates the cyber vulnerabilities of the Federal Government.".

(e) GAO Report.—Not later than 3 years after the date on which the first budget of the President is submitted to Congress containing the validation required under section 1105(a)(35)(A)(i)(V) of title 31, United States Code, as amended by subsection (c), the Comptroller General of the United States shall submit to the appropriate congressional committees a report that includes—

(1) an evaluation of the success of covered agencies in developing risk-based budgets;

(2) an evaluation of the success of covered agencies in implementing risk-based budgets;

(3) an evaluation of whether the risk-based budgets developed by covered agencies mitigate cyber vulnerability, including the extent to which the risk-based budgets inform Federal Government-wide cybersecurity programs; and

(4) any other information relating to risk-based budgets the Comptroller General determines appropriate.

TITLE LIV—PILOT PROGRAMS TO ENHANCE FEDERAL CYBERSECURITY

SEC. 5181. ACTIVE CYBER DEFENSIVE STUDY.

(a) Definition.—In this section, the term "active defense technique"—

(1) means an action taken on the systems of an entity to increase the security of information on the network of an agency by misleading an adversary; and

(2) includes a honeypot, deception, or purposefully feeding false or misleading data to an adversary when the adversary is on the systems of the entity.

(b) Study.—Not later than 180 days after the date of enactment of this Act, the Director of the Cybersecurity and Infrastructure Security Agency, in coordination with the Director, shall perform a study on the use of active defense techniques to enhance the security of agencies, which shall include—

(1) a review of legal restrictions on the use of different active cyber defense techniques in Federal environments, in consultation with the Department of Justice;

(2) an evaluation of—

(A) the efficacy of a selection of active defense techniques determined by the Director of the Cybersecurity and Infrastructure Security Agency; and

(B) factors that impact the efficacy of the active defense techniques evaluated under subparagraph (A);

(3) recommendations on safeguards and procedures that shall be established to require that active defense techniques are adequately coordinated to ensure that active defense techniques do not impede threat response efforts, criminal investigations, and national

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security activities, including intelligence collection; and

(4) the development of a framework for the use of different active defense techniques by agencies.

SEC. 5182. SECURITY OPERATIONS CENTER AS A SERVICE PILOT.

(a) Purpose.—The purpose of this section is for the Cybersecurity and Infrastructure Security Agency to run a security operation center on behalf of another agency, alleviating the need to duplicate this function at every agency, and empowering a greater centralized cybersecurity capability.

(b) Plan.—Not later than 1 year after the date of enactment of this Act, the Director of the Cybersecurity and Infrastructure Security Agency shall develop a plan to establish a centralized Federal security operations center shared service offering within the Cybersecurity and Infrastructure Security Agency.

(c) Contents.—The plan required under subsection (b) shall include considerations for—

(1) collecting, organizing, and analyzing agency information system data in real time;

(2) staffing and resources; and

(3) appropriate interagency agreements, concepts of operations, and governance plans.

(d) Pilot Program.—

(1) IN GENERAL.—Not later than 180 days after the date on which the plan required under subsection (b) is developed, the Director of the Cybersecurity and Infrastructure Security Agency, in consultation with the Director, shall enter into a 1-year agreement with not less than 2 agencies to offer a security operations center as a shared service.

(2) ADDITIONAL AGREEMENTS.—After the date on which the briefing required under subsection (e)(1) is provided, the Director of the Cybersecurity and Infrastructure Security Agency, in consultation with the Director, may enter into additional 1-year agreements described in paragraph (1) with agencies.

(e) Briefing and Report.—

(1) BRIEFING.—Not later than 260 days after the date of enactment of this Act, the Director of the Cybersecurity and Infrastructure Security Agency shall provide to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security and the Committee on Oversight and Reform of the House of Representatives a briefing on the parameters of any 1-year agreements entered into under subsection (d)(1).

(2) REPORT.—Not later than 90 days after the date on which the first 1-year agreement entered into under subsection (d) expires, the Director of the Cybersecurity and Infrastructure Security Agency shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security and the Committee on Oversight and Reform of the House of Representatives a report on—

(A) the agreement; and

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(B) any additional agreements entered into with agencies under subsection (d).

DIVISION F—CYBER INCIDENT REPORTING ACT OF 2021 AND CISA TECHNICAL CORRECTIONS AND IMPROVEMENTS ACT OF 2021

TITLE LXI—CYBER INCIDENT REPORTING ACT OF 2021

SEC. 6101. SHORT TITLE.

This title may be cited as the "Cyber Incident Reporting Act of 2021".

SEC. 6102. DEFINITIONS.

In this title:

(1) COVERED CYBER INCIDENT; COVERED ENTITY; CYBER INCIDENT.—The terms "covered cyber incident", "covered entity", and "cyber incident" have the meanings given those terms in section 2230 of the Homeland Security Act of 2002, as added by section 6103 of this title.

(2) RANSOM PAYMENT; RANSOMWARE ATTACK.—The terms "ransom payment" and "ransomware attack" have the meanings given those terms in section 2200 of the Homeland Security Act of 2002 (6 U.S.C. 651), as added by section 6203 of this division.

(3) DIRECTOR.—The term "Director" means the Director of the Cybersecurity and Infrastructure Security Agency.

(4) INFORMATION SYSTEM; SECURITY VULNERABILITY.—The terms "information system" and "security vulnerability" have the meanings given those terms in section 102 of the Cybersecurity Act of 2015 (6 U.S.C. 1501).

SEC. 6103. CYBER INCIDENT REPORTING.

(a) Cyber Incident Reporting.—Title XXII of the Homeland Security Act of 2002 (6 U.S.C. 651 et seq.) is amended—

(1) in section 2209(b) (6 U.S.C. 659(b)), as so redesignated by section 6203(b) of this division—

(A) in paragraph (11), by striking "and" at the end;

(B) in paragraph (12), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(13) receiving, aggregating, and analyzing reports related to covered cyber incidents (as defined in section 2230) submitted by covered entities (as defined in section 2230) and reports related to ransom payments submitted by entities in furtherance of the activities specified in sections 2202(e), 2203, and 2231, this subsection, and any other authorized activity of the Director, to enhance the situational awareness of cybersecurity threats across critical infrastructure sectors."; and

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(2) by adding at the end the following:

"Subtitle C—Cyber Incident Reporting

"SEC. 2230. DEFINITIONS.

"In this subtitle:

"(1) CENTER.—The term 'Center' means the center established under section 2209.

"(2) COUNCIL.—The term 'Council' means the Cyber Incident Reporting Council described in section 1752(c)(1)(H) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (6 U.S.C. 1500(c)(1)(H)).

"(3) COVERED CYBER INCIDENT.—The term 'covered cyber incident' means a substantial cyber incident experienced by a covered entity that satisfies the definition and criteria established by the Director in the final rule issued pursuant to section 2232(b).

"(4) COVERED ENTITY.—The term 'covered entity' means—

"(A) any Federal contractor; or

"(B) an entity that owns or operates critical infrastructure that satisfies the definition established by the Director in the final rule issued pursuant to section 2232(b).

"(5) CYBER INCIDENT.—The term 'cyber incident' has the meaning given the term 'incident' in section 2200.

"(6) CYBER THREAT.—The term 'cyber threat'—

"(A) has the meaning given the term 'cybersecurity threat' in section 2200; and

"(B) does not include any activity related to good faith security research, including participation in a bug-bounty program or a vulnerability disclosure program.

"(7) FEDERAL CONTRACTOR.—The term 'Federal contractor' means a business, nonprofit organization, or other private sector entity that holds a Federal Government contract, unless that contractor is a party only to—

"(A) a service contract to provide housekeeping or custodial services; or

"(B) a contract to provide products or services unrelated to information technology that is below the micro-purchase threshold, as defined in section 2.101 of title 48, Code of Federal Regulations, or any successor regulation.

"(8) FEDERAL ENTITY; INFORMATION SYSTEM; SECURITY CONTROL.—The terms 'Federal entity', 'information system', and 'security control' have the meanings given those terms in section 102 of the Cybersecurity Act of 2015 (6 U.S.C. 1501).

"(9) SIGNIFICANT CYBER INCIDENT.—The term 'significant cyber incident' means a cybersecurity incident, or a group of related cybersecurity incidents, that the Secretary determines is likely to result in demonstrable harm to the national security interests, foreign relations, or economy of the United States or to the public confidence, civil liberties, or public health and safety of the people of the United States.

"(10) SMALL ORGANIZATION.—The term 'small organization'—

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"(A) means—

"(i) a small business concern, as defined in section 3 of the Small Business Act (15 U.S.C. 632); or

"(ii) any nonprofit organization, including faith-based organizations and houses of worship, or other private sector entity with fewer than 200 employees (determined on a full-time equivalent basis); and

"(B) does not include—

"(i) a business, nonprofit organization, or other private sector entity that is a covered entity; or

"(ii) a Federal contractor.

"SEC. 2231. CYBER INCIDENT REVIEW.

"(a) Activities.—The Center shall—

"(1) receive, aggregate, analyze, and secure, using processes consistent with the processes developed pursuant to the Cybersecurity Information Sharing Act of 2015 (6 U.S.C. 1501 et seq.) reports from covered entities related to a covered cyber incident to assess the effectiveness of security controls, identify tactics, techniques, and procedures adversaries use to overcome those controls and other cybersecurity purposes, including to support law enforcement investigations, to assess potential impact of incidents on public health and safety, and to have a more accurate picture of the cyber threat to critical infrastructure and the people of the United States;

"(2) receive, aggregate, analyze, and secure reports to lead the identification of tactics, techniques, and procedures used to perpetuate cyber incidents and ransomware attacks;

"(3) coordinate and share information with appropriate Federal departments and agencies to identify and track ransom payments, including those utilizing virtual currencies;

"(4) leverage information gathered about cybersecurity incidents to—

"(A) enhance the quality and effectiveness of information sharing and coordination efforts with appropriate entities, including agencies, sector coordinating councils, information sharing and analysis organizations, technology providers, critical infrastructure owners and operators, cybersecurity and incident response firms, and security researchers; and

"(B) provide appropriate entities, including agencies, sector coordinating councils, information sharing and analysis organizations, technology providers, cybersecurity and incident response firms, and security researchers, with timely, actionable, and anonymized reports of cyber incident campaigns and trends, including, to the maximum extent practicable, related contextual information, cyber threat indicators, and defensive measures, pursuant to section 2235;

"(5) establish mechanisms to receive feedback from stakeholders on how the Agency can most effectively receive covered cyber incident reports, ransom payment reports, and other voluntarily provided information;

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"(6) facilitate the timely sharing, on a voluntary basis, between relevant critical infrastructure owners and operators of information relating to covered cyber incidents and ransom payments, particularly with respect to ongoing cyber threats or security vulnerabilities and identify and disseminate ways to prevent or mitigate similar incidents in the future;

"(7) for a covered cyber incident, including a ransomware attack, that also satisfies the definition of a significant cyber incident, or is part of a group of related cyber incidents that together satisfy such definition, conduct a review of the details surrounding the covered cyber incident or group of those incidents and identify and disseminate ways to prevent or mitigate similar incidents in the future;

"(8) with respect to covered cyber incident reports under subsection (b) involving an ongoing cyber threat or security vulnerability, immediately review those reports for cyber threat indicators that can be anonymized and disseminated, with defensive measures, to appropriate stakeholders, in coordination with other divisions within the Agency, as appropriate;

"(9) publish quarterly unclassified, public reports that may be based on the unclassified information contained in the reports required under subsection (b);

"(10) proactively identify opportunities and perform analyses, consistent with the protections in section 2235, to leverage and utilize data on ransomware attacks to support law enforcement operations to identify, track, and seize ransom payments utilizing virtual currencies, to the greatest extent practicable;

"(11) proactively identify opportunities, consistent with the protections in section 2235, to leverage and utilize data on cyber incidents in a manner that enables and strengthens cybersecurity research carried out by academic institutions and other private sector organizations, to the greatest extent practicable;

"(12) on a not less frequently than annual basis, analyze public disclosures made pursuant to parts 229 and 249 of title 17, Code of Federal Regulations, or any subsequent document submitted to the Securities and Exchange Commission by entities experiencing cyber incidents and compare such disclosures to reports received by the Center; and

"(13) in accordance with section 2235 and subsection (b) of this section, as soon as possible but not later than 24 hours after receiving a covered cyber incident report, ransom payment report, voluntarily submitted information pursuant to section 2233, or information received pursuant to a request for information or subpoena under section 2234, make available the information to appropriate Sector Risk Management Agencies and other appropriate Federal agencies.

"(b) Interagency Sharing.—The Director of the Office of Management and Budget, in consultation with the Director and the National Cyber Director—

"(1) may establish a specific time requirement for sharing information under subsection (a)(13); and

"(2) shall determine the appropriate Federal agencies under subsection (a)(13).

"(c) Periodic Briefing.—Not later than 60 days after the effective date of the final rule required under section 2232(b), and on the first day of each month thereafter, the Director, in

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consultation with the National Cyber Director, the Attorney General, and the Director of National Intelligence, shall provide to the majority leader of the Senate, the minority leader of the Senate, the Speaker of the House of Representatives, the minority leader of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Homeland Security of the House of Representatives a briefing that characterizes the national cyber threat landscape, including the threat facing Federal agencies and covered entities, and applicable intelligence and law enforcement information, covered cyber incidents, and ransomware attacks, as of the date of the briefing, which shall—

"(1) include the total number of reports submitted under sections 2232 and 2233 during the preceding month, including a breakdown of required and voluntary reports;

"(2) include any identified trends in covered cyber incidents and ransomware attacks over the course of the preceding month and as compared to previous reports, including any trends related to the information collected in the reports submitted under sections 2232 and 2233, including—

"(A) the infrastructure, tactics, and techniques malicious cyber actors commonly use; and

"(B) intelligence gaps that have impeded, or currently are impeding, the ability to counter covered cyber incidents and ransomware threats;

"(3) include a summary of the known uses of the information in reports submitted under sections 2232 and 2233; and

"(4) be unclassified, but may include a classified annex.

"SEC. 2232. REQUIRED REPORTING OF CERTAIN CYBER INCIDENTS.

"(a) In General.—

"(1) COVERED CYBER INCIDENT REPORTS.—A covered entity that is a victim of a covered cyber incident shall report the covered cyber incident to the Director not later than 72 hours after the covered entity reasonably believes that the covered cyber incident has occurred.

"(2) RANSOM PAYMENT REPORTS.—An entity, including a covered entity and except for an individual or a small organization, that makes a ransom payment as the result of a ransomware attack against the entity shall report the payment to the Director not later than 24 hours after the ransom payment has been made.

"(3) SUPPLEMENTAL REPORTS.—A covered entity shall promptly submit to the Director an update or supplement to a previously submitted covered cyber incident report if new or different information becomes available or if the covered entity makes a ransom payment after submitting a covered cyber incident report required under paragraph (1).

"(4) PRESERVATION OF INFORMATION.—Any entity subject to requirements of paragraph (1), (2), or (3) shall preserve data relevant to the covered cyber incident or ransom payment in accordance with procedures established in the final rule issued pursuant to subsection (b).

"(5) EXCEPTIONS.—

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"(A) REPORTING OF COVERED CYBER INCIDENT WITH RANSOM PAYMENT.—If a covered cyber incident includes a ransom payment such that the reporting requirements under paragraphs (1) and (2) apply, the covered entity may submit a single report to satisfy the requirements of both paragraphs in accordance with procedures established in the final rule issued pursuant to subsection (b).

"(B) SUBSTANTIALLY SIMILAR REPORTED INFORMATION.—The requirements under paragraphs (1), (2), and (3) shall not apply to an entity required by law, regulation, or contract to report substantially similar information to another Federal agency within a substantially similar timeframe.

"(C) DOMAIN NAME SYSTEM.—The requirements under paragraphs (1), (2) and (3) shall not apply to an entity or the functions of an entity that the Director determines constitute critical infrastructure owned, operated, or governed by multi-stakeholder organizations that develop, implement, and enforce policies concerning the Domain Name System, such as the Internet Corporation for Assigned Names and Numbers or the Internet Assigned Numbers Authority.

"(6) MANNER, TIMING, AND FORM OF REPORTS.—Reports made under paragraphs (1), (2), and (3) shall be made in the manner and form, and within the time period in the case of reports made under paragraph (3), prescribed in the final rule issued pursuant to subsection (b).

"(7) EFFECTIVE DATE.—Paragraphs (1) through (4) shall take effect on the dates prescribed in the final rule issued pursuant to subsection (b).

"(b) Rulemaking.—

"(1) NOTICE OF PROPOSED RULEMAKING.—Not later than 2 years after the date of enactment of this section, the Director, in consultation with Sector Risk Management Agencies and the heads of other Federal agencies, shall publish in the Federal Register a notice of proposed rulemaking to implement subsection (a).

"(2) FINAL RULE.—Not later than 18 months after publication of the notice of proposed rulemaking under paragraph (1), the Director shall issue a final rule to implement subsection (a).

"(3) SUBSEQUENT RULEMAKINGS.—

"(A) IN GENERAL.—The Director may issue regulations to implement subsection (a) after issuance of the final rule under paragraph (2), including a rule to amend or revise the final rule.

"(B) PROCEDURES.—Any subsequent rules issued under subparagraph (A) shall comply with the requirements under chapter 5 of title 5, United States Code, including the issuance of a notice of proposed rulemaking under section 553 of such title.

"(c) Elements.—The final rule issued pursuant to subsection (b) shall be composed of the following elements:

"(1) A clear description of the types of entities that constitute covered entities, based on—

"(A) the consequences that disruption to or compromise of such an entity could

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cause to national security, economic security, or public health and safety;

"(B) the likelihood that such an entity may be targeted by a malicious cyber actor, including a foreign country; and

"(C) the extent to which damage, disruption, or unauthorized access to such an entity, including the accessing of sensitive cybersecurity vulnerability information or penetration testing tools or techniques, will likely enable the disruption of the reliable operation of critical infrastructure.

"(2) A clear description of the types of substantial cyber incidents that constitute covered cyber incidents, which shall—

"(A) at a minimum, require the occurrence of—

"(i) the unauthorized access to an information system or network with a substantial loss of confidentiality, integrity, or availability of such information system or network, or a serious impact on the safety and resiliency of operational systems and processes;

"(ii) a disruption of business or industrial operations due to a cyber incident; or

"(iii) an occurrence described in clause (i) or (ii) due to loss of service facilitated through, or caused by, a compromise of a cloud service provider, managed service provider, or other third-party data hosting provider or by a supply chain compromise;

"(B) consider—

"(i) the sophistication or novelty of the tactics used to perpetrate such an incident, as well as the type, volume, and sensitivity of the data at issue;

"(ii) the number of individuals directly or indirectly affected or potentially affected by such an incident; and

"(iii) potential impacts on industrial control systems, such as supervisory control and data acquisition systems, distributed control systems, and programmable logic controllers; and

"(C) exclude—

"(i) any event where the cyber incident is perpetuated by a United States Government entity, good faith security research, or in response to an invitation by the owner or operator of the information system for third parties to find vulnerabilities in the information system, such as through a vulnerability disclosure program or the use of authorized penetration testing services; and

"(ii) the threat of disruption as extortion, as described in section 2201(9)(A).

"(3) A requirement that, if a covered cyber incident or a ransom payment occurs following an exempted threat described in paragraph (2)(C)(ii), the entity shall comply with the requirements in this subtitle in reporting the covered cyber incident or ransom payment.

"(4) A clear description of the specific required contents of a report pursuant to subsection (a)(1), which shall include the following information, to the extent applicable and available, with respect to a covered cyber incident:

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"(A) A description of the covered cyber incident, including—

"(i) identification and a description of the function of the affected information systems, networks, or devices that were, or are reasonably believed to have been, affected by such incident;

"(ii) a description of the unauthorized access with substantial loss of confidentiality, integrity, or availability of the affected information system or network or disruption of business or industrial operations;

"(iii) the estimated date range of such incident; and

"(iv) the impact to the operations of the covered entity.

"(B) Where applicable, a description of the vulnerabilities, tactics, techniques, and procedures used to perpetuate the covered cyber incident.

"(C) Where applicable, any identifying or contact information related to each actor reasonably believed to be responsible for such incident.

"(D) Where applicable, identification of the category or categories of information that were, or are reasonably believed to have been, accessed or acquired by an unauthorized person.

"(E) The name and other information that clearly identifies the entity impacted by the covered cyber incident.

"(F) Contact information, such as telephone number or electronic mail address, that the Center may use to contact the covered entity or an authorized agent of such covered entity, or, where applicable, the service provider of such covered entity acting with the express permission of, and at the direction of, the covered entity to assist with compliance with the requirements of this subtitle.

"(5) A clear description of the specific required contents of a report pursuant to subsection (a)(2), which shall be the following information, to the extent applicable and available, with respect to a ransom payment:

"(A) A description of the ransomware attack, including the estimated date range of the attack.

"(B) Where applicable, a description of the vulnerabilities, tactics, techniques, and procedures used to perpetuate the ransomware attack.

"(C) Where applicable, any identifying or contact information related to the actor or actors reasonably believed to be responsible for the ransomware attack.

"(D) The name and other information that clearly identifies the entity that made the ransom payment.

"(E) Contact information, such as telephone number or electronic mail address, that the Center may use to contact the entity that made the ransom payment or an authorized agent of such covered entity, or, where applicable, the service provider of such covered entity acting with the express permission of, and at the direction of, that entity to assist with compliance with the requirements of this subtitle.

"(F) The date of the ransom payment.

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"(G) The ransom payment demand, including the type of virtual currency or other commodity requested, if applicable.

"(H) The ransom payment instructions, including information regarding where to send the payment, such as the virtual currency address or physical address the funds were requested to be sent to, if applicable.

"(I) The amount of the ransom payment.

"(6) A clear description of the types of data required to be preserved pursuant to subsection (a)(4) and the period of time for which the data is required to be preserved.

"(7) Deadlines for submitting reports to the Director required under subsection (a)(3), which shall—

"(A) be established by the Director in consultation with the Council;

"(B) consider any existing regulatory reporting requirements similar in scope, purpose, and timing to the reporting requirements to which such a covered entity may also be subject, and make efforts to harmonize the timing and contents of any such reports to the maximum extent practicable; and

"(C) balance the need for situational awareness with the ability of the covered entity to conduct incident response and investigations.

"(8) Procedures for—

"(A) entities to submit reports required by paragraphs (1), (2), and (3) of subsection (a), including the manner and form thereof, which shall include, at a minimum, a concise, user-friendly web-based form;

"(B) the Agency to carry out the enforcement provisions of section 2233, including with respect to the issuance, service, withdrawal, and enforcement of subpoenas, appeals and due process procedures, the suspension and debarment provisions in section 2234(c), and other aspects of noncompliance;

"(C) implementing the exceptions provided in subparagraphs (A), (B), and (D) of subsection (a)(5); and

"(D) protecting privacy and civil liberties consistent with processes adopted pursuant to section 105(b) of the Cybersecurity Act of 2015 (6 U.S.C. 1504(b)) and anonymizing and safeguarding, or no longer retaining, information received and disclosed through covered cyber incident reports and ransom payment reports that is known to be personal information of a specific individual or information that identifies a specific individual that is not directly related to a cybersecurity threat.

"(9) A clear description of the types of entities that constitute other private sector entities for purposes of section 2230(b)(7).

"(d) Third Party Report Submission and Ransom Payment.—

"(1) REPORT SUBMISSION.—An entity, including a covered entity, that is required to submit a covered cyber incident report or a ransom payment report may use a third party, such as an incident response company, insurance provider, service provider, information sharing and analysis organization, or law firm, to submit the required report under

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subsection (a).

"(2) RANSOM PAYMENT.—If an entity impacted by a ransomware attack uses a third party to make a ransom payment, the third party shall not be required to submit a ransom payment report for itself under subsection (a)(2).

"(3) DUTY TO REPORT.—Third-party reporting under this subparagraph does not relieve a covered entity or an entity that makes a ransom payment from the duty to comply with the requirements for covered cyber incident report or ransom payment report submission.

"(4) RESPONSIBILITY TO ADVISE.—Any third party used by an entity that knowingly makes a ransom payment on behalf of an entity impacted by a ransomware attack shall advise the impacted entity of the responsibilities of the impacted entity regarding reporting ransom payments under this section.

"(e) Outreach to Covered Entities.—

"(1) IN GENERAL.—The Director shall conduct an outreach and education campaign to inform likely covered entities, entities that offer or advertise as a service to customers to make or facilitate ransom payments on behalf of entities impacted by ransomware attacks, potential ransomware attack victims, and other appropriate entities of the requirements of paragraphs (1), (2), and (3) of subsection (a).

"(2) ELEMENTS.—The outreach and education campaign under paragraph (1) shall include the following:

"(A) An overview of the final rule issued pursuant to subsection (b).

"(B) An overview of mechanisms to submit to the Center covered cyber incident reports and information relating to the disclosure, retention, and use of incident reports under this section.

"(C) An overview of the protections afforded to covered entities for complying with the requirements under paragraphs (1), (2), and (3) of subsection (a).

"(D) An overview of the steps taken under section 2234 when a covered entity is not in compliance with the reporting requirements under subsection (a).

"(E) Specific outreach to cybersecurity vendors, incident response providers, cybersecurity insurance entities, and other entities that may support covered entities or ransomware attack victims.

"(F) An overview of the privacy and civil liberties requirements in this subtitle.

"(3) COORDINATION.—In conducting the outreach and education campaign required under paragraph (1), the Director may coordinate with—

"(A) the Critical Infrastructure Partnership Advisory Council established under section 871;

"(B) information sharing and analysis organizations;

"(C) trade associations;

"(D) information sharing and analysis centers;

"(E) sector coordinating councils; and

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"(F) any other entity as determined appropriate by the Director.

"(f) Organization of Reports.—Notwithstanding chapter 35 of title 44, United States Code (commonly known as the 'Paperwork Reduction Act'), the Director may request information within the scope of the final rule issued under subsection (b) by the alteration of existing questions or response fields and the reorganization and reformatting of the means by which covered cyber incident reports, ransom payment reports, and any voluntarily offered information is submitted to the Center.

"SEC. 2233. VOLUNTARY REPORTING OF OTHER CYBER INCIDENTS.

"(a) In General.—Entities may voluntarily report incidents or ransom payments to the Director that are not required under paragraph (1), (2), or (3) of section 2232(a), but may enhance the situational awareness of cyber threats.

"(b) Voluntary Provision of Additional Information in Required Reports.—Entities may voluntarily include in reports required under paragraph (1), (2), or (3) of section 2232(a) information that is not required to be included, but may enhance the situational awareness of cyber threats.

"(c) Application of Protections.—The protections under section 2235 applicable to covered cyber incident reports shall apply in the same manner and to the same extent to reports and information submitted under subsections (a) and (b).

"SEC. 2234. NONCOMPLIANCE WITH REQUIRED REPORTING.

"(a) Purpose.—In the event that an entity that is required to submit a report under section 2232(a) fails to comply with the requirement to report, the Director may obtain information about the incident or ransom payment by engaging the entity directly to request information about the incident or ransom payment, and if the Director is unable to obtain information through such engagement, by issuing a subpoena to the entity, pursuant to subsection (c), to gather information sufficient to determine whether a covered cyber incident or ransom payment has occurred, and, if so, whether additional action is warranted pursuant to subsection (d).

"(b) Initial Request for Information.—

"(1) IN GENERAL.—If the Director has reason to believe, whether through public reporting or other information in the possession of the Federal Government, including through analysis performed pursuant to paragraph (1) or (2) of section 2231(a), that an entity has experienced a covered cyber incident or made a ransom payment but failed to report such incident or payment to the Center within 72 hours in accordance with section 2232(a), the Director shall request additional information from the entity to confirm whether or not a covered cyber incident or ransom payment has occurred.

"(2) TREATMENT.—Information provided to the Center in response to a request under paragraph (1) shall be treated as if it was submitted through the reporting procedures established in section 2232.

"(c) Authority to Issue Subpoenas and Debar.—

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"(1) IN GENERAL.—If, after the date that is 72 hours from the date on which the Director made the request for information in subsection (b), the Director has received no response from the entity from which such information was requested, or received an inadequate response, the Director may issue to such entity a subpoena to compel disclosure of information the Director deems necessary to determine whether a covered cyber incident or ransom payment has occurred and obtain the information required to be reported pursuant to section 2232 and any implementing regulations.

"(2) CIVIL ACTION.—

"(A) IN GENERAL.—If an entity fails to comply with a subpoena, the Director may refer the matter to the Attorney General to bring a civil action in a district court of the United States to enforce such subpoena.

"(B) VENUE.—An action under this paragraph may be brought in the judicial district in which the entity against which the action is brought resides, is found, or does business.

"(C) CONTEMPT OF COURT.—A court may punish a failure to comply with a subpoena issued under this subsection as contempt of court.

"(3) NON-DELEGATION.—The authority of the Director to issue a subpoena under this subsection may not be delegated.

"(4) DEBARMENT OF FEDERAL CONTRACTORS.—If a covered entity with a Federal Government contract, grant, cooperative agreement, or other transaction agreement fails to comply with a subpoena issued under this subsection—

"(A) the Director may refer the matter to the Administrator of General Services; and

"(B) upon receiving a referral from the Director, the Administrator of General Services may impose additional available penalties, including suspension or debarment.

"(d) Actions by Attorney General and Regulators.—

"(1) IN GENERAL.—Notwithstanding section 2235(a) and subsection (b)(2) of this section, if the Attorney General or the appropriate regulator determines, based on information provided in response to a subpoena issued pursuant to subsection (c), that the facts relating to the covered cyber incident or ransom payment at issue may constitute grounds for a regulatory enforcement action or criminal prosecution, the Attorney General or the appropriate regulator may use that information for a regulatory enforcement action or criminal prosecution.

"(2) APPLICATION TO CERTAIN ENTITIES AND THIRD PARTIES.—A covered cyber incident or ransom payment report submitted to the Center by an entity that makes a ransom payment or third party under section 2232 shall not be used by any Federal, State, Tribal, or local government to investigate or take another law enforcement action against the entity that makes a ransom payment or third party.

"(3) RULE OF CONSTRUCTION.—Nothing in this subtitle shall be construed to provide an entity that submits a covered cyber incident report or ransom payment report under section 2232 any immunity from law enforcement action for making a ransom payment otherwise

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prohibited by law.

"(e) Considerations.—When determining whether to exercise the authorities provided under this section, the Director shall take into consideration—

"(1) the size and complexity of the entity;

"(2) the complexity in determining if a covered cyber incident has occurred; and

"(3) prior interaction with the Agency or awareness of the entity of the policies and procedures of the Agency for reporting covered cyber incidents and ransom payments.

"(f) Exclusions.—This section shall not apply to a State, local, Tribal, or territorial government entity.

"(g) Report to Congress.—The Director shall submit to Congress an annual report on the number of times the Director—

"(1) issued an initial request for information pursuant to subsection (b);

"(2) issued a subpoena pursuant to subsection (c);

"(3) brought a civil action pursuant to subsection (c)(2); or

"(4) conducted additional actions pursuant to subsection (d).

"SEC. 2235. INFORMATION SHARED WITH OR PROVIDED TO THE FEDERAL GOVERNMENT.

"(a) Disclosure, Retention, and Use.—

"(1) AUTHORIZED ACTIVITIES.—Information provided to the Center or Agency pursuant to section 2232 may be disclosed to, retained by, and used by, consistent with otherwise applicable provisions of Federal law, any Federal agency or department, component, officer, employee, or agent of the Federal Government solely for—

"(A) a cybersecurity purpose;

"(B) the purpose of identifying—

"(i) a cyber threat, including the source of the cyber threat; or

"(ii) a security vulnerability;

"(C) the purpose of responding to, or otherwise preventing or mitigating, a specific threat of death, a specific threat of serious bodily harm, or a specific threat of serious economic harm, including a terrorist act or use of a weapon of mass destruction;

"(D) the purpose of responding to, investigating, prosecuting, or otherwise preventing or mitigating, a serious threat to a minor, including sexual exploitation and threats to physical safety; or

"(E) the purpose of preventing, investigating, disrupting, or prosecuting an offense arising out of a covered cyber incident or any of the offenses listed in section 105(d)(5)(A)(v) of the Cybersecurity Act of 2015 (6 U.S.C. 1504(d)(5)(A)(v)).

"(2) AGENCY ACTIONS AFTER RECEIPT.—

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"(A) RAPID, CONFIDENTIAL SHARING OF CYBER THREAT INDICATORS.—Upon receiving a covered cyber incident or ransom payment report submitted pursuant to this section, the center shall immediately review the report to determine whether the incident that is the subject of the report is connected to an ongoing cyber threat or security vulnerability and where applicable, use such report to identify, develop, and rapidly disseminate to appropriate stakeholders actionable, anonymized cyber threat indicators and defensive measures.

"(B) STANDARDS FOR SHARING SECURITY VULNERABILITIES.—With respect to information in a covered cyber incident or ransom payment report regarding a security vulnerability referred to in paragraph (1)(B)(ii), the Director shall develop principles that govern the timing and manner in which information relating to security vulnerabilities may be shared, consistent with common industry best practices and United States and international standards.

"(3) PRIVACY AND CIVIL LIBERTIES.—Information contained in covered cyber incident and ransom payment reports submitted to the Center or the Agency pursuant to section 2232 shall be retained, used, and disseminated, where permissible and appropriate, by the Federal Government in accordance with processes to be developed for the protection of personal information consistent with processes adopted pursuant to section 105 of the Cybersecurity Act of 2015 (6 U.S.C. 1504) and in a manner that protects from unauthorized use or disclosure any information that may contain—

"(A) personal information of a specific individual; or

"(B) information that identifies a specific individual that is not directly related to a cybersecurity threat.

"(4) DIGITAL SECURITY.—The Center and the Agency shall ensure that reports submitted to the Center or the Agency pursuant to section 2232, and any information contained in those reports, are collected, stored, and protected at a minimum in accordance with the requirements for moderate impact Federal information systems, as described in Federal Information Processing Standards Publication 199, or any successor document.

"(5) PROHIBITION ON USE OF INFORMATION IN REGULATORY ACTIONS.—A Federal, State, local, or Tribal government shall not use information about a covered cyber incident or ransom payment obtained solely through reporting directly to the Center or the Agency in accordance with this subtitle to regulate, including through an enforcement action, the lawful activities of the covered entity or entity that made a ransom payment.

"(b) No Waiver of Privilege or Protection.—The submission of a report to the Center or the Agency under section 2232 shall not constitute a waiver of any applicable privilege or protection provided by law, including trade secret protection and attorney-client privilege.

"(c) Exemption From Disclosure.—Information contained in a report submitted to the Office under section 2232 shall be exempt from disclosure under section 552(b)(3)(B) of title 5, United States Code (commonly known as the 'Freedom of Information Act') and any State, Tribal, or local provision of law requiring disclosure of information or records.

"(d) Ex Parte Communications.—The submission of a report to the Agency under section 2232 shall not be subject to a rule of any Federal agency or department or any judicial doctrine regarding ex parte communications with a decision-making official.

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"(e) Liability Protections.—

"(1) IN GENERAL.—No cause of action shall lie or be maintained in any court by any person or entity and any such action shall be promptly dismissed for the submission of a report pursuant to section 2232(a) that is submitted in conformance with this subtitle and the rule promulgated under section 2232(b), except that this subsection shall not apply with regard to an action by the Federal Government pursuant to section 2234(c)(2).

"(2) SCOPE.—The liability protections provided in subsection (e) shall only apply to or affect litigation that is solely based on the submission of a covered cyber incident report or ransom payment report to the Center or the Agency.

"(3) RESTRICTIONS.—Notwithstanding paragraph (2), no report submitted to the Agency pursuant to this subtitle or any communication, document, material, or other record, created for the sole purpose of preparing, drafting, or submitting such report, may be received in evidence, subject to discovery, or otherwise used in any trial, hearing, or other proceeding in or before any court, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, provided that nothing in this subtitle shall create a defense to discovery or otherwise affect the discovery of any communication, document, material, or other record not created for the sole purpose of preparing, drafting, or submitting such report.

"(f) Sharing With Non-Federal Entities.—The Agency shall anonymize the victim who reported the information when making information provided in reports received under section 2232 available to critical infrastructure owners and operators and the general public.

"(g) Proprietary Information.—Information contained in a report submitted to the Agency under section 2232 shall be considered the commercial, financial, and proprietary information of the covered entity when so designated by the covered entity.

"(h) Stored Communications Act.—Nothing in this subtitle shall be construed to permit or require disclosure by a provider of a remote computing service or a provider of an electronic communication service to the public of information not otherwise permitted or required to be disclosed under chapter 121 of title 18, United States Code (commonly known as the 'Stored Communications Act').".

(b) Technical and Conforming Amendment.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2135) is amended by inserting after the items relating to subtitle B of title XXII the following:

"Subtitle C—Cyber Incident Reporting

"Sec.2230.Definitions.

"Sec.2231.Cyber Incident Review.

"Sec.2232.Required reporting of certain cyber incidents.

"Sec.2233.Voluntary reporting of other cyber incidents.

"Sec.2234.Noncompliance with required reporting.

"Sec.2235.Information shared with or provided to the Federal Government.".

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SEC. 6104. FEDERAL SHARING OF INCIDENT REPORTS.

(a) Cyber Incident Reporting Sharing.—

(1) IN GENERAL.—Notwithstanding any other provision of law or regulation, any Federal agency that receives a report from an entity of a cyber incident, including a ransomware attack, shall provide the report to the Director as soon as possible, but not later than 24 hours after receiving the report, unless a shorter period is required by an agreement made between the Cybersecurity Infrastructure Security Agency and the recipient Federal agency.

(2) RULE OF CONSTRUCTION.—The requirements described in paragraph (1) shall not be construed to be a violation of any provision of law or policy that would otherwise prohibit disclosure within the executive branch.

(3) PROTECTION OF INFORMATION.—The Director shall comply with any obligations of the recipient Federal agency described in paragraph (1) to protect information, including with respect to privacy, confidentiality, or information security, if those obligations would impose greater protection requirements than this Act or the amendments made by this Act.

(4) FOIA EXEMPTION.—Any report received by the Director pursuant to paragraph (1) shall be exempt from disclosure under section 552(b)(3) of title 5, United States Code (commonly known as the "Freedom of Information Act").

(b) Creation of Council.—Section 1752(c) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (6 U.S.C. 1500(c)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (G), by striking "and" at the end;

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

"(H) lead an intergovernmental Cyber Incident Reporting Council, in coordination with the Director of the Office of Management and Budget and the Director of the Cybersecurity and Infrastructure Security Agency and in consultation with Sector Risk Management Agencies (as defined in section 2201 of the Homeland Security Act of 2002 (6 U.S.C. 651)) and other appropriate Federal agencies, to coordinate, deconflict, and harmonize Federal incident reporting requirements, including those issued through regulations, for covered entities (as defined in section 2230 of such Act) and entities that make a ransom payment (as defined in such section 2201 (6 U.S.C. 651)); and"; and

(2) by adding at the end the following:

"(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1)(H) shall be construed to provide any additional regulatory authority to any Federal entity.".

(c) Harmonizing Reporting Requirements.—The National Cyber Director shall, in consultation with the Director, the Cyber Incident Reporting Council described in section 1752(c)(1)(H) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (6 U.S.C. 1500(c)(1)(H)), and the Director of the Office of Management and Budget, to the maximum extent practicable—

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(1) periodically review existing regulatory requirements, including the information required in such reports, to report cyber incidents and ensure that any such reporting requirements and procedures avoid conflicting, duplicative, or burdensome requirements; and

(2) coordinate with the Director and regulatory authorities that receive reports relating to cyber incidents to identify opportunities to streamline reporting processes, and where feasible, facilitate interagency agreements between such authorities to permit the sharing of such reports, consistent with applicable law and policy, without impacting the ability of such agencies to gain timely situational awareness of a covered cyber incident or ransom payment.

SEC. 6105. RANSOMWARE VULNERABILITY WARNING PILOT PROGRAM.

(a) Program.—Not later than 1 year after the date of enactment of this Act, the Director shall establish a ransomware vulnerability warning program to leverage existing authorities and technology to specifically develop processes and procedures for, and to dedicate resources to, identifying information systems that contain security vulnerabilities associated with common ransomware attacks, and to notify the owners of those vulnerable systems of their security vulnerability.

(b) Identification of Vulnerable Systems.—The pilot program established under subsection (a) shall—

(1) identify the most common security vulnerabilities utilized in ransomware attacks and mitigation techniques; and

(2) utilize existing authorities to identify Federal and other relevant information systems that contain the security vulnerabilities identified in paragraph (1).

(c) Entity Notification.—

(1) IDENTIFICATION.—If the Director is able to identify the entity at risk that owns or operates a vulnerable information system identified in subsection (b), the Director may notify the owner of the information system.

(2) NO IDENTIFICATION.—If the Director is not able to identify the entity at risk that owns or operates a vulnerable information system identified in subsection (b), the Director may utilize the subpoena authority pursuant to section 2209 of the Homeland Security Act of 2002 (6 U.S.C. 659) to identify and notify the entity at risk pursuant to the procedures within that section.

(3) REQUIRED INFORMATION.—A notification made under paragraph (1) shall include information on the identified security vulnerability and mitigation techniques.

(d) Prioritization of Notifications.—To the extent practicable, the Director shall prioritize covered entities for identification and notification activities under the pilot program established under this section.

(e) Limitation on Procedures.—No procedure, notification, or other authorities utilized in the execution of the pilot program established under subsection (a) shall require an owner or

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operator of a vulnerable information system to take any action as a result of a notice of a security vulnerability made pursuant to subsection (c).

(f) Rule of Construction.—Nothing in this section shall be construed to provide additional authorities to the Director to identify vulnerabilities or vulnerable systems.

(g) Termination.—The pilot program established under subsection (a) shall terminate on the date that is 4 years after the date of enactment of this Act.

SEC. 6106. RANSOMWARE THREAT MITIGATION ACTIVITIES.

(a) Joint Ransomware Task Force.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the National Cyber Director, in consultation with the Attorney General and the Director of the Federal Bureau of Investigation, shall establish and chair the Joint Ransomware Task Force to coordinate an ongoing nationwide campaign against ransomware attacks, and identify and pursue opportunities for international cooperation.

(2) COMPOSITION.—The Joint Ransomware Task Force shall consist of participants from Federal agencies, as determined appropriate by the National Cyber Director in consultation with the Secretary of Homeland Security.

(3) RESPONSIBILITIES.—The Joint Ransomware Task Force, utilizing only existing authorities of each participating agency, shall coordinate across the Federal Government the following activities:

(A) Prioritization of intelligence-driven operations to disrupt specific ransomware actors.

(B) Consult with relevant private sector, State, local, Tribal, and territorial governments and international stakeholders to identify needs and establish mechanisms for providing input into the Task Force.

(C) Identifying, in consultation with relevant entities, a list of highest threat ransomware entities updated on an ongoing basis, in order to facilitate—

(i) prioritization for Federal action by appropriate Federal agencies; and

(ii) identify metrics for success of said actions.

(D) Disrupting ransomware criminal actors, associated infrastructure, and their finances.

(E) Facilitating coordination and collaboration between Federal entities and relevant entities, including the private sector, to improve Federal actions against ransomware threats.

(F) Collection, sharing, and analysis of ransomware trends to inform Federal actions.

(G) Creation of after-action reports and other lessons learned from Federal actions that identify successes and failures to improve subsequent actions.

(H) Any other activities determined appropriate by the task force to mitigate the

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threat of ransomware attacks against Federal and non-Federal entities.

(b) Clarifying Private Sector Lawful Defensive Measures.—Not later than 180 days after the date of enactment of this Act, the National Cyber Director, in coordination with the Secretary of Homeland Security and the Attorney General, shall submit to the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate and the Committee on Homeland Security, the Committee on the Judiciary, and the Committee on Oversight and Reform of the House of Representatives a report that describes defensive measures that private sector actors can take when countering ransomware attacks and what laws need to be clarified to enable that action.

(c) Rule of Construction.—Nothing in this section shall be construed to provide any additional authority to any Federal agency.

SEC. 6107. CONGRESSIONAL REPORTING.

(a) Report on Stakeholder Engagement.—Not later than 30 days after the date on which the Director issues the final rule under section 2232(b) of the Homeland Security Act of 2002, as added by section 6103(b) of this title, the Director shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report that describes how the Director engaged stakeholders in the development of the final rule.

(b) Report on Opportunities to Strengthen Security Research.—Not later than 1 year after the date of enactment of this Act, the Director shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report describing how the National Cybersecurity and Communications Integration Center established under section 2209 of the Homeland Security Act of 2002 (6 U.S.C. 659) has carried out activities under section 2231(a)(9) of the Homeland Security Act of 2002, as added by section 6103(a) of this title, by proactively identifying opportunities to use cyber incident data to inform and enable cybersecurity research within the academic and private sector.

(c) Report on Ransomware Vulnerability Warning Pilot Program.—Not later than 1 year after the date of enactment of this Act, and annually thereafter for the duration of the pilot program established under section 6105, the Director shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report, which may include a classified annex, on the effectiveness of the pilot program, which shall include a discussion of the following:

(1) The effectiveness of the notifications under section 6105(c) in mitigating security vulnerabilities and the threat of ransomware.

(2) Identification of the most common vulnerabilities utilized in ransomware.

(3) The number of notifications issued during the preceding year.

(4) To the extent practicable, the number of vulnerable devices or systems mitigated under this pilot by the Agency during the preceding year.

(d) Report on Harmonization of Reporting Regulations.—

(1) IN GENERAL.—Not later than 180 days after the date on which the National Cyber

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Director convenes the Council described in section 1752(c)(1)(H) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (6 U.S.C. 1500(c)(1)(H)), the National Cyber Director shall submit to the appropriate congressional committees a report that includes—

(A) a list of duplicative Federal cyber incident reporting requirements on covered entities and entities that make a ransom payment;

(B) a description of any challenges in harmonizing the duplicative reporting requirements;

(C) any actions the National Cyber Director intends to take to facilitate harmonizing the duplicative reporting requirements; and

(D) any proposed legislative changes necessary to address the duplicative reporting.

(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to provide any additional regulatory authority to any Federal agency.

(e) GAO Reports.—

(1) IMPLEMENTATION OF THIS ACT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the implementation of this Act and the amendments made by this Act.

(2) EXEMPTIONS TO REPORTING.—Not later than 1 year after the date on which the Director issues the final rule required under section 2232(b) of the Homeland Security Act of 2002, as added by section 6103 of this title, the Comptroller General of the United States shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the exemptions to reporting under paragraphs (2) and (5) of section 2232(a) of the Homeland Security Act of 2002, as added by section 6103 of this title, which shall include—

(A) to the extent practicable, an evaluation of the quantity of incidents not reported to the Federal Government;

(B) an evaluation of the impact on impacted entities, homeland security, and the national economy of the ransomware criminal ecosystem of incidents and ransom payments, including a discussion on the scope of impact of incidents that were not reported to the Federal Government;

(C) an evaluation of the burden, financial and otherwise, on entities required to report cyber incidents under this Act, including an analysis of entities that meet the definition of a small organization and would be exempt from ransom payment reporting but not for being a covered entity; and

(D) a description of the consequences and effects of the exemptions.

(f) Report on Effectiveness of Enforcement Mechanisms.—Not later than 1 year after the date on which the Director issues the final rule required under section 2232(b) of the Homeland Security Act of 2002, as added by section 6103 of this title, the Director shall submit to the

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Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the effectiveness of the enforcement mechanisms within section 2234 of the Homeland Security Act of 2002, as added by section 6103 of this title.

TITLE LXII—CISA TECHNICAL CORRECTIONS AND IMPROVEMENTS ACT OF 2021

SEC. 6201. SHORT TITLE.

This title may be cited as the "CISA Technical Corrections and Improvements Act of 2021".

SEC. 6202. REDESIGNATIONS.

(a) In General.—Subtitle A of title XXII of the Homeland Security Act of 2002 (6 U.S.C. 651 et seq.) is amended—

(1) by redesignating section 2217 (6 U.S.C. 665f) as section 2220;

(2) by redesignating section 2216 (6 U.S.C. 665e) as section 2219;

(3) by redesignating the fourth section 2215 (relating to Sector Risk Management Agencies) (6 U.S.C. 665d) as section 2218;

(4) by redesignating the third section 2215 (relating to the Cybersecurity State Coordinator) (6 U.S.C. 665c) as section 2217; and

(5) by redesignating the second section 2215 (relating to the Joint Cyber Planning Office) (6 U.S.C. 665b) as section 2216.

(b) Technical and Conforming Amendments.—Section 2202(c) of the Homeland Security Act of 2002 (6 U.S.C. 652(c)) is amended—

(1) in the first paragraph (12), by striking "section 2215" and inserting "section 2217"; and

(2) by redesignating the second and third paragraphs (12) as paragraphs (13) and (14), respectively.

(c) Additional Technical Amendment.—

(1) AMENDMENT.—Section 904(b)(1) of the DOTGOV Act of 2020 (title IX of division U of Public Law 116–260) is amended, in the matter preceding subparagraph (A), by striking "Homeland Security Act" and inserting "Homeland Security Act of 2002".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if enacted as part of the DOTGOV Act of 2020 (title IX of division U of Public Law 116–260).

SEC. 6203. CONSOLIDATION OF DEFINITIONS.

(a) In General.—Title XXII of the Homeland Security Act of 2002 (6 U.S.C. 651) is amended by inserting before the subtitle A heading the following:

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“SEC. 2200. DEFINITIONS.

“Except as otherwise specifically provided, in this title:

“(1) AGENCY.—The term ‘Agency’ means the Cybersecurity and Infrastructure Security Agency.

“(2) AGENCY INFORMATION.—The term ‘agency information’ means information collected or maintained by or on behalf of an agency.

“(3) AGENCY INFORMATION SYSTEM.—The term ‘agency information system’ means an information system used or operated by an agency or by another entity on behalf of an agency.

“(4) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means—

“(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

“(B) the Committee on Homeland Security of the House of Representatives.

“(5) CLOUD SERVICE PROVIDER.—The term ‘cloud service provider’ means an entity offering products or services related to cloud computing, as defined by the National Institutes of Standards and Technology in NIST Special Publication 800–145 and any amendatory or superseding document relating thereto.

“(6) CRITICAL INFRASTRUCTURE INFORMATION.—The term ‘critical infrastructure information’ means information not customarily in the public domain and related to the security of critical infrastructure or protected systems, including—

“(A) actual, potential, or threatened interference with, attack on, compromise of, or incapacitation of critical infrastructure or protected systems by either physical or computer-based attack or other similar conduct (including the misuse of or unauthorized access to all types of communications and data transmission systems) that violates Federal, State, or local law, harms interstate commerce of the United States, or threatens public health or safety;

“(B) the ability of any critical infrastructure or protected system to resist such interference, compromise, or incapacitation, including any planned or past assessment, projection, or estimate of the vulnerability of critical infrastructure or a protected system, including security testing, risk evaluation thereto, risk management planning, or risk audit; or

“(C) any planned or past operational problem or solution regarding critical infrastructure or protected systems, including repair, recovery, reconstruction, insurance, or continuity, to the extent it is related to such interference, compromise, or incapacitation.

“(7) CYBER THREAT INDICATOR.—The term ‘cyber threat indicator’ means information that is necessary to describe or identify—

“(A) malicious reconnaissance, including anomalous patterns of communications that appear to be transmitted for the purpose of gathering technical information related

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to a cybersecurity threat or security vulnerability;

"(B) a method of defeating a security control or exploitation of a security vulnerability;

"(C) a security vulnerability, including anomalous activity that appears to indicate the existence of a security vulnerability;

"(D) a method of causing a user with legitimate access to an information system or information that is stored on, processed by, or transiting an information system to unwittingly enable the defeat of a security control or exploitation of a security vulnerability;

"(E) malicious cyber command and control;

"(F) the actual or potential harm caused by an incident, including a description of the information exfiltrated as a result of a particular cybersecurity threat;

"(G) any other attribute of a cybersecurity threat, if disclosure of such attribute is not otherwise prohibited by law; or

"(H) any combination thereof.

"(8) CYBERSECURITY PURPOSE.—The term 'cybersecurity purpose' means the purpose of protecting an information system or information that is stored on, processed by, or transiting an information system from a cybersecurity threat or security vulnerability.

"(9) CYBERSECURITY RISK.—The term 'cybersecurity risk'—

"(A) means threats to and vulnerabilities of information or information systems and any related consequences caused by or resulting from unauthorized access, use, disclosure, degradation, disruption, modification, or destruction of such information or information systems, including such related consequences caused by an act of terrorism; and

"(B) does not include any action that solely involves a violation of a consumer term of service or a consumer licensing agreement.

"(10) CYBERSECURITY THREAT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'cybersecurity threat' means an action, not protected by the First Amendment to the Constitution of the United States, on or through an information system that may result in an unauthorized effort to adversely impact the security, availability, confidentiality, or integrity of an information system or information that is stored on, processed by, or transiting an information system.

"(B) EXCLUSION.—The term 'cybersecurity threat' does not include any action that solely involves a violation of a consumer term of service or a consumer licensing agreement.

"(11) DEFENSIVE MEASURE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'defensive measure' means an action, device, procedure, signature, technique, or other measure applied to an information system or information that is stored on, processed by, or

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transiting an information system that detects, prevents, or mitigates a known or suspected cybersecurity threat or security vulnerability.

"(B) EXCLUSION.—The term 'defensive measure' does not include a measure that destroys, renders unusable, provides unauthorized access to, or substantially harms an information system or information stored on, processed by, or transiting such information system not owned by—

"(i) the entity operating the measure; or

"(ii) another entity or Federal entity that is authorized to provide consent and has provided consent to that private entity for operation of such measure.

"(12) HOMELAND SECURITY ENTERPRISE.—The term 'Homeland Security Enterprise' means relevant governmental and nongovernmental entities involved in homeland security, including Federal, State, local, and Tribal government officials, private sector representatives, academics, and other policy experts.

"(13) INCIDENT.—The term 'incident' means an occurrence that actually or imminently jeopardizes, without lawful authority, the integrity, confidentiality, or availability of information on an information system, or actually or imminently jeopardizes, without lawful authority, an information system.

"(14) INFORMATION SHARING AND ANALYSIS ORGANIZATION.—The term 'Information Sharing and Analysis Organization' means any formal or informal entity or collaboration created or employed by public or private sector organizations, for purposes of—

"(A) gathering and analyzing critical infrastructure information, including information related to cybersecurity risks and incidents, in order to better understand security problems and interdependencies related to critical infrastructure, including cybersecurity risks and incidents, and protected systems, so as to ensure the availability, integrity, and reliability thereof;

"(B) communicating or disclosing critical infrastructure information, including cybersecurity risks and incidents, to help prevent, detect, mitigate, or recover from the effects of a interference, compromise, or a incapacitation problem related to critical infrastructure, including cybersecurity risks and incidents, or protected systems; and

"(C) voluntarily disseminating critical infrastructure information, including cybersecurity risks and incidents, to its members, State, local, and Federal Governments, or any other entities that may be of assistance in carrying out the purposes specified in subparagraphs (A) and (B).

"(15) INFORMATION SYSTEM.—The term 'information system' has the meaning given the term in section 3502 of title 44, United States Code.

"(16) INTELLIGENCE COMMUNITY.—The term 'intelligence community' has the meaning given the term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)).

"(17) MANAGED SERVICE PROVIDER.—The term 'managed service provider' means an entity that delivers services, such as network, application, infrastructure, or security services, via ongoing and regular support and active administration on the premises of a customer, in the data center of the entity (such as hosting), or in a third party data center.

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"(18) MONITOR.—The term 'monitor' means to acquire, identify, or scan, or to possess, information that is stored on, processed by, or transiting an information system.

"(19) NATIONAL CYBERSECURITY ASSET RESPONSE ACTIVITIES.—The term 'national cybersecurity asset response activities' means—

"(A) furnishing cybersecurity technical assistance to entities affected by cybersecurity risks to protect assets, mitigate vulnerabilities, and reduce impacts of cyber incidents;

"(B) identifying other entities that may be at risk of an incident and assessing risk to the same or similar vulnerabilities;

"(C) assessing potential cybersecurity risks to a sector or region, including potential cascading effects, and developing courses of action to mitigate such risks;

"(D) facilitating information sharing and operational coordination with threat response; and

"(E) providing guidance on how best to utilize Federal resources and capabilities in a timely, effective manner to speed recovery from cybersecurity risks.

"(20) NATIONAL SECURITY SYSTEM.—The term 'national security system' has the meaning given the term in section 11103 of title 40, United States Code.

"(21) RANSOM PAYMENT.—The term 'ransom payment' means the transmission of any money or other property or asset, including virtual currency, or any portion thereof, which has at any time been delivered as ransom in connection with a ransomware attack.

"(22) RANSOMWARE ATTACK.—The term 'ransomware attack'—

"(A) means a cyber incident that includes the threat of use of unauthorized or malicious code on an information system, or the threat of use of another digital mechanism such as a denial of service attack, to interrupt or disrupt the operations of an information system or compromise the confidentiality, availability, or integrity of electronic data stored on, processed by, or transiting an information system to extort a demand for a ransom payment; and

"(B) does not include any such event where the demand for payment is made by a Federal Government entity, good faith security research, or in response to an invitation by the owner or operator of the information system for third parties to identify vulnerabilities in the information system.

"(23) SECTOR RISK MANAGEMENT AGENCY.—The term 'Sector Risk Management Agency' means a Federal department or agency, designated by law or Presidential directive, with responsibility for providing institutional knowledge and specialized expertise of a sector, as well as leading, facilitating, or supporting programs and associated activities of its designated critical infrastructure sector in the all hazards environment in coordination with the Department.

"(24) SECURITY VULNERABILITY.—The term 'security vulnerability' means any attribute of hardware, software, process, or procedure that could enable or facilitate the defeat of a security control.

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"(25) SHARING.—The term 'sharing' (including all conjugations thereof) means providing, receiving, and disseminating (including all conjugations of each such terms).

"(26) SUPPLY CHAIN COMPROMISE.—The term 'supply chain compromise' means a cyber incident within the supply chain of an information technology system whereby an adversary jeopardizes the confidentiality, integrity, or availability of the information technology system or the information the system processes, stores, or transmits, and can occur at any point during the life cycle.

"(27) VIRTUAL CURRENCY.—The term 'virtual currency' means the digital representation of value that functions as a medium of exchange, a unit of account, or a store of value.

"(28) VIRTUAL CURRENCY ADDRESS.—The term 'virtual currency address' means a unique public cryptographic key identifying the location to which a virtual currency payment can be made.".

(b) Technical and Conforming Amendments.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended—

(1) by amending section 2201 to read as follows:

"SEC. 2201. DEFINITION.

"In this subtitle, the term 'Cybersecurity Advisory Committee' means the advisory committee established under section 2219(a).";

(2) in section 2202—

(A) in subsection (a)(1), by striking "(in this subtitle referred to as the Agency)";

(B) in subsection (f)—

(i) in paragraph (1), by inserting "Executive" before "Assistant Director"; and

(ii) in paragraph (2), by inserting "Executive" before "Assistant Director";

(3) in section 2203(a)(2), by striking "as the 'Assistant Director'" and inserting "as the 'Executive Assistant Director'";

(4) in section 2204(a)(2), by striking "as the 'Assistant Director'" and inserting "as the 'Executive Assistant Director'";

(5) in section 2209—

(A) by striking subsection (a);

(B) by redesignating subsections (b) through (o) as subsections (a) through (n), respectively;

(C) in subsection (c)(1)(A)(iii), as so redesignated, by striking ", as that term is defined under section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))";

(D) in subsection (d), as so redesignated, in the matter preceding paragraph (1), by striking "subsection (c)" and inserting "subsection (b)";

(E) in subsection (j), as so redesignated, by striking "subsection (c)(8)" and inserting "subsection (b)(8)"; and

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(F) in subsection (n), as so redesignated—

(i) in paragraph (2)(A), by striking "subsection (c)(12)" and inserting "subsection (b)(12)"; and

(ii) in paragraph (3)(B)(i), by striking "subsection (c)(12)" and inserting "subsection (b)(12)";

(6) in section 2210—

(A) by striking subsection (a);

(B) by redesignating subsections (b) through (d) as subsections (a) through (c), respectively;

(C) in subsection (b), as so redesignated—

(i) by striking "information sharing and analysis organizations (as defined in section 2222(5))" and inserting "Information Sharing and Analysis Organizations"; and

(ii) by striking "(as defined in section 2209)"; and

(D) in subsection (c), as so redesignated, by striking "subsection (c)" and inserting "subsection (b)";

(7) in section 2211, by striking subsection (h);

(8) in section 2212, by striking "information sharing and analysis organizations (as defined in section 2222(5))" and inserting "Information Sharing and Analysis Organizations";

(9) in section 2213—

(A) by striking subsection (a);

(B) by redesignating subsections (b) through (f) as subsections (a) through (e); respectively;

(C) in subsection (b), as so redesignated, by striking "subsection (b)" each place it appears and inserting "subsection (a)";

(D) in subsection (c), as so redesignated, in the matter preceding paragraph (1), by striking "subsection (b)" and inserting "subsection (a)"; and

(E) in subsection (d), as so redesignated—

(i) in paragraph (1)—

(I) in the matter preceding subparagraph (A), by striking "subsection (c)(2)" and inserting "subsection (b)(2)";

(II) in subparagraph (A), by striking "subsection (c)(1)" and inserting "subsection (b)(1)"; and

(III) in subparagraph (B), by striking "subsection (c)(2)" and inserting "subsection (b)(2)"; and

(ii) in paragraph (2), by striking "subsection (c)(2)" and inserting "subsection

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(b)(2)";

(10) in section 2216, as so redesignated—

(A) by striking subsection (a);

(B) by redesignating subsections (b) through (h) as subsections (a) through (g), respectively;

(C) in subsection (a), as so redesignated—

(i) in the matter preceding paragraph (1), by striking "subsection (e)" and inserting "subsection (d)";

(ii) in paragraph (1), by striking "subsection (c)" and inserting "subsection (b)"; and

(iii) in paragraph (2), by striking "subsection (c)" and inserting "subsection (b)";

(D) in subsection (b)(4), as so redesignated—

(i) by striking "subsection (e)" and inserting "subsection (d)"; and

(ii) by striking "subsection (h)" and inserting "subsection (g)";

(E) in subsection (d), as so redesignated, by striking "subsection (b)(1)" each place it appears and inserting "subsection (a)(1)";

(F) in subsection (e), as so redesignated—

(i) by striking "subsection (b)" and inserting "subsection (a)";

(ii) by striking "subsection (e)" and inserting "subsection (d)"; and

(iii) by striking "subsection (b)(1)" and inserting "subsection (a)(1)"; and

(G) in subsection (f), as so redesignated, by striking "subsection (c)" and inserting "subsection (b)";

(11) in section 2217, as so redesignated, by striking subsection (f) and inserting the following:

"(f) Cyber Defense Operation Defined.—In this section, the term 'cyber defense operation' means the use of a defensive measure."; and

(12) in section 2222—

(A) by striking paragraphs (3), (5), and (8);

(B) by redesignating paragraph (4) as paragraph (3); and

(C) by redesignating paragraphs (6) and (7) as paragraphs (4) and (5), respectively.

(c) Table of Contents Amendments.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2135) is amended—

(1) by inserting before the item relating to subtitle A of title XXII the following:

"Sec.2200.Definitions.";

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(2) by striking the item relating to section 2201 and inserting the following:

"Sec.2201.Definition."; and

(3) by striking the second item relating to section 2215 and all that follows through the item relating to section 2217 and inserting the following:

"Sec.2216.Cybersecurity State Coordinator.

"Sec.2217.Joint Cyber Planning Office.

"Sec.2218.Duties and authorities relating to .gov internet domain.

"Sec.2219.Cybersecurity Advisory Committee.

"Sec.2220.Cybersecurity Education and Training Programs.".

(d) Cybersecurity Act of 2015 Definitions.—Section 102 of the Cybersecurity Act of 2015 (6 U.S.C. 1501) is amended—

(1) by striking paragraphs (4) through (7) and inserting the following:

"(4) CYBERSECURITY PURPOSE.—The term 'cybersecurity purpose' has the meaning given the term in section 2200 of the Homeland Security Act of 2002.

"(5) CYBERSECURITY THREAT.—The term 'cybersecurity threat' has the meaning given the term in section 2200 of the Homeland Security Act of 2002.

"(6) CYBER THREAT INDICATOR.—The term 'cyber threat indicator' has the meaning given the term in section 2200 of the Homeland Security Act of 2002.

"(7) DEFENSIVE MEASURE.—The term 'defensive measure' has the meaning given the term in section 2200 of the Homeland Security Act of 2002.";

(2) by striking paragraph (13) and inserting the following:

"(13) MONITOR.— The term 'monitor' has the meaning given the term in section 2200 of the Homeland Security Act of 2002."; and

(3) by striking paragraph (17) and inserting the following:

"(17) SECURITY VULNERABILITY.—The term 'security vulnerability' has the meaning given the term in section 2200 of the Homeland Security Act of 2002.".

SEC. 6204. ADDITIONAL TECHNICAL AND CONFORMING AMENDMENTS.

(a) Federal Cybersecurity Enhancement Act of 2015.—The Federal Cybersecurity Enhancement Act of 2015 (6 U.S.C. 1521 et seq.) is amended—

(1) in section 222 (6 U.S.C. 1521)—

(A) in paragraph (2), by striking "section 2210" and inserting "section 2200"; and

(B) in paragraph (4), by striking "section 2209" and inserting "section 2200";

(2) in section 223 (6 U.S.C. 151 note), by striking "section 2213(b)(1)" each place it appears and inserting "section 2213(a)(1)";

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(3) in section 226—

(A) in subsection (a)—

(i) in paragraph (1), by striking "section 2213" and inserting "section 2200";

(ii) in paragraph (4), by striking "section 2210(b)(1)" and inserting "section 2210(a)(1)"; and

(iii) in paragraph (5), by striking "section 2213(b)" and inserting "section 2213(a)"; and

(B) in subsection (c)(1)(A)(vi), by striking "section 2213(c)(5)" and inserting "section 2213(b)(5)"; and

(4) in section 227(b) (6 U.S.C. 1525(b)), by striking "section 2213(d)(2)" and inserting "section 2213(c)(2)".

(b) Public Health Service Act.—Section 2811(b)(4)(D) of the Public Health Service Act (42 U.S.C. 300hh–10(b)(4)(D)) is amended by striking "section 228(c) of the Homeland Security Act of 2002 (6 U.S.C. 149(c))" and inserting "section 2210(c) of the Homeland Security Act of 2002".

(c) William M. (Mac) Thornberry National Defense Authorization Act of Fiscal Year 2021.—Section 9002 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (6 U.S.C. 652a) is amended—

(1) in subsection (a)—

(A) in paragraph (5), by striking "section 2222(5) of the Homeland Security Act of 2002 (6 U.S.C. 671(5))" and inserting "section 2200 of the Homeland Security Act of 2002"; and

(B) by amending paragraph (7) to read as follows:

"(7) SECTOR RISK MANAGEMENT AGENCY.—The term 'Sector Risk Management Agency' has the meaning given the term in section 2200 of the Homeland Security Act of 2002.";

(2) in subsection (c)(3)(B), by striking "section 2201(5) of the Homeland Security Act of 2002 (6 U.S.C. 651(5))" and inserting "section 2200 of the Homeland Security Act of 2002"; and

(3) in subsection (d)—

(A) by striking "section 2215" and inserting "section 2218"; and

(B) by striking ", as added by this section".

(d) National Security Act of 1947.—Section 113B of the National Security Act of 1947 (50 U.S.C. 3049a(b)(4)) is amended by striking "section 226 of the Homeland Security Act of 2002 (6 U.S.C. 147)" and inserting "section 2206 of the Homeland Security Act of 2002".

(e) IoT Cybersecurity Improvement Act of 2020.—Section 5(b)(3) of the IoT Cybersecurity Improvement Act of 2020 (15 U.S.C. 278g–3c) is amended by striking "section 2209(m)" and inserting "section 2209(l)".

(f) Small Business Act.—Section 21(a)(8)(B) of the Small Business Act (15 U.S.C.

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648(a)(8)(B)) is amended by striking "section 2209(a)" and inserting "section 2200".

(g) Title 46.—Section 70101(2) of title 46, United States Code, is amended by striking "section 227 of the Homeland Security Act of 2002 (6 U.S.C. 148)" and inserting "section 2200 of the Homeland Security Act of 2002".

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Cyber Incident Reporting Act of 2021

Part of amendment to Senate NDAA proposed by Senator Peters (D-MI), Senator Portman (R-OH), Senator Warner (D-VA), Senator Collins (R-ME), and Senator Sinema (D-AZ)
NASS Summary Updated on 11/11/2021

Definitions [pg. 52]

- Defines covered cyber incident, covered entity, cyber incident, cyber attack, ransom payment, ransomware attack, information system, and security vulnerability according to existing federal law and subsequent sections of this bill;
- Assigns the task of receiving, aggregating, and analyzing reports required by this legislation to CISA central (referred to throughout the bill as "center").

Cyber Incident Reporting [pg. 53]

- Provides definitions for center, council, covered cyber incident, covered entity, cyber incident, cyber threats, federal contractor, federal entity, information system, security control, significant cyber incident, and small organization.
    - Covered incident will be defined by the CISA Director through rulemaking.
    - Covered entity is defined as any federal contractor or entity that owns or operates critical infrastructure.
    - Significant cyber incident' is defines as cybersecurity incident, or a group of related cybersecurity incidents, that the DHS Secretary determines is likely to result in demonstrable harm to the national security interests, foreign relations, or economy of the United States or to the public confidence, civil liberties, or public health and safety of the people of the United States.
    - Small organization is defined as a "small business concern" as defined in the Small Business Act or any nonprofit organization or other private entity with fewer than 200 employees except for federal contractors or other covered entities.

Cyber Incident Review Office [pg. 54]

The Center (CISA Central) shall –

- receive, aggregate, analyze, and secure, using processes consistent with existing law, reports related to covered cybersecurity incidents submitted by covered entities to assess the effectiveness of security controls, identify tactics, techniques, and procedures (TTPs) adversaries use to overcome controls and other cybersecurity purposes including law enforcement investigations, to assess potential impact of incidents on public 19 health and safety, and to have a more accurate picture of the cyber threat to critical infrastructure and the people of the United States.
- receive, aggregate, analyze, and secure reports to lead the identification of TTPs used to perpetuate cyber incidents and ransomware attacks;
- coordinate and share information with appropriate Federal departments and agencies to identify and track ransom payments, including those utilizing virtual currencies;
- leverage information gathered about cyber incidents to –

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    - enhance the quality and effectiveness of information sharing and coordination efforts;
    - provide appropriate entities with timely, actionable, and anonymized reports of cyber incident campaigns and trends, including, to the maximum extent practicable, related contextual information, cyber threat indicators, and defensive measures
- establish mechanisms to receive feedback from stakeholders;
- facilitate the timely sharing, on voluntary basis, between relevant critical infrastructure owners and operators of information relating to covered cybersecurity incidents and ransom payments, particularly with respect to ongoing cybersecurity threats or security vulnerabilities, and identify ways to prevent or mitigate similar incidents in the future;
- conduct reviews of the details surrounding covered cybersecurity incidents that meet the definition of a significant cyber incident and identify ways to prevent or mitigate similar incidents in the future;
- for reports related to an ongoing cybersecurity threat or security vulnerability immediately review for indicators that can be anonymized and distributed to appropriate stakeholders;
- publish quarterly unclassified, public reports that observations, findings and recommendations based on incident and ransom payment reports;
- proactively identify opportunities and perform analyses to leverage data on ransomware attacks to support law enforcement operations to identify, track, and seize ransom payments utilizing virtual currencies;
- leverage data on cybersecurity incidents to strengthen cybersecurity research;
- compare reports with public disclosures made to the Securities and Exchange Commission;
- share reported information with the appropriate Sector Risk Management Agency and other appropriate agencies as soon as possible within 24 hours.
- within 60 does of the effective date of the interim final rule and then monthly, the CISA Director in consultation with the National Cyber Director, the Attorney General, and the Director of National Intelligence (DNI) shall brief the US House and the US Senate on the national threat landscape.
    - It should include –
        - The total number of reports and a breakdown of voluntary vs. required;
        - Any identified trends including TTPs and identified intelligence gaps; and
        - A summary of uses of reports.
        - It should be unclassified but may include a classified annex.

<u>Required Reporting of Certain Cyber Incidents [pg. 56]</u>

- A covered entity shall report a covered cyber incident to the Director within 72 hours of reasonable belief that a covered cyber incident has occurred.
- Entities, except for individuals and small organizations, shall report any ransom payments as a result of a ransomware attack within 24 hours of making the payment.
- A covered entity shall promptly submit an update or supplement to a previous report if new or different information becomes available or if the entity subsequently makes a ransom payment.

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- Entities shall preserve data relevant to covered cyber incidents of ransom payments.
- Exceptions:
    - A single report may cover both a covered incident and related ransom payment.
    - The requirements shall not apply to an entity required to report substantially similar information to another Federal agency within a substantially similar timeframe.
- The CISA Director shall establish the manner and form of reports and timeframe of supplemental reports through rulemaking.
- The CISA Director shall establish the effective date of the requirements through rulemaking.

Rulemaking [pg. 57]

- Within 2 years of enactment, the CISA Director, in consultation with Sector Risk Management Agencies and other Federal agencies, shall publish in the Federal Register a notice of proposed rulemaking.
- Not later than 18 months after the notice of proposed rulemaking, the CISA Director shall issue a final rule.
- The CISA Director may issue regulations after the issuance of the final rule to revise or amend it.
    - Any subsequent rulemaking shall comply with the rulemaking process above.
- The final rule shall include –
    - A clear description of the types of entities that constitute covered entities based on the consequences that disruption to/or compromise of such an entity could cause to national security, economic security, or public health and safety; the likelihood of targeting by a malicious cyber actor including a foreign country; the extent to which damage, disruption, or unauthorized access will enable the disruption of the reliable operation of critical infrastructure.
    - The types of incidents determined to be covered incidents which shall require the occurrence of –
        - unauthorized access to an information system or network has occurred and lead to loss of confidentiality, integrity, or availability of such information system or network, or has a serious impact on the safety and resiliency of operational systems and processes.
        - disruption of business or industrial operations [due to a cybersecurity incident; or
        - either of the above or caused by a compromise of a cloud service provider, managed service provider, or other third-party data hosting provider or by a supply chain compromise.
    - In determining what constitutes a covered cyber incident, CISA shall consider –
        - the sophistication or novelty of the tactics; the type, volume, and sensitivity of the data; the number of individuals affected; and potential impacts on industrial control systems.
    - Covered cyber incident shall exclude –

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        - cybersecurity incidents perpetuated by a US government entity, good-faith security research, penetration testing, or vulnerability reporting by invitation; or
        - the threat of disruption as extortion.
        - If a covered incident or ransom payment occurs after an exempted threat, then the entity shall comply with reporting requirements.
    - A clear description of the required contents of covered cyber incident reports including –
        - a description of the covered cybersecurity incident and the affected systems;
        - a description of the unauthorized access with substantial loss of confidentiality, integrity, or availability;
        - the estimated date range of the covered incident;
        - the impact to operations;
        - a description of the vulnerabilities and TTPs used to perpetuate the covered cybersecurity incident;
        - any identifying or contact information related to the actor responsible for the incident;
        - identification of the categories of information that was accessed by an unauthorized person;
        - the name and other information that clearly identifies the impacted entity; and
        - contact information, such as the telephone number or email address for the covered entity or its service provider.
    - A clear description of the required contents of ransom payment reports including –
        - a description of the ransomware attack including the estimated date range;
        - a description of the vulnerabilities and TTPs;
        - any identifying or contact information related to the actor responsible for the ransomware attack;
        - the name and other information that clearly identifies the entity that made the ransom payment;
        - contact information, such as the telephone number or email address for the entity that paid the ransom or its service provider.
        - the date of the ransom payment;
        - the ransom payment demand including the type of the virtual currency or other commodity requested;
        - the ransom payment instructions;
        - the amount of the ransom payment.
    - A clear description of the requirements for data preservation.
    - Deadlines for supplemental reports.
    - Procedures for –

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- report submission which shall include a concise, user-friendly, web-based form;
- implementing enforcement provisions;
- implementing exceptions;
- anonymizing and safeguarding certain information disclosed through reports including personal information of a specific individual or identifying information of an individual not directly related to a cybersecurity threat.

Third Party Report Submission and Ransom Payment [pg. 60]

- Entities may use third parties, such as vendors, insurance providers or ISACs, to submit required reports.
- If a third party makes a ransom payment on behalf of another entity, the third party shall not be required to submit a ransom payment report for itself.
- Third-party reporting does not relieve covered entities or entities from complying with reporting requirements.
- Any third party that makes a ransom payment on behalf of another entity shall advise the impacted entity on their reporting requirements.

Outreach to Covered Entities [pg. 61]

- The Director shall conduct an outreach and education campaign to inform likely covered entities, entities that make ransom payments on behalf of entities impacted by ransomware attacks, potential ransomware attack victims, and other appropriate entities of the reporting requirements.
- The outreach and education campaign shall include:
    - An overview of the final rule.
    - An overview of the mechanisms for submitting reports and information relating to the disclosure, retention, and use of incident reports.
    - An overview of the protections afforded to entities for compliance.
    - An overview of the steps taken when a covered entity is not in compliance.
    - Specific outreach to vendors, incident response providers, cybersecurity insurance entities and others that may support covered entities or ransomware attack victims.
    - An overview of the privacy and civil liberties requirements.
- The Director may coordinate with the Critical Infrastructure Partnership Advisory Council and with ISACs/ISAOs, SCCs, and other appropriate entities on the outreach and education campaign.

Voluntary Reporting of Cyber Incidents [pg. 62]

- Entities may voluntarily report incidents or ransom payments that are not required but may enhance the situational awareness of cyber threats.
- Entities may voluntarily include information that is not required but may enhance the situational awareness of cyber threats in reports.

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- Voluntary reports and information should receive the same protections as required reports.

Noncompliance with Required Reporting [pg. 62]

- If an entity fails to comply with the requirement to report, the CISA Director may obtain information about the incident or ransom payment through direct engagement with the entity. If that fails, the Director may issue a subpoena;
    - If the Director has reason to believe a covered incident or ransom payment occurred but was not reported with 72 hours, the Director shall request additional information from the entity.
        - Information provided to CISA as a result of this outreach shall be treated as if it was submitted through the required reporting procedures.
    - If the Director receives no response or an inadequate response by a date that is 72 hours after the date of the request, the Director may issue a subpoena to the entity to compel disclosure of the necessary information to determine whether a covered incident or ransom payment occurred.
        - If an entity fails to comply with a subpoena, the Director may refer the matter to the Attorney General to bring a civil action in a district court of the United States to enforce such subpoena. A court may punish a failure to comply with a subpoena as a contempt of court.
        - If an entity with a federal contract fails to comply with a subpoena, the CISA Director may refer the matter to the GSA Administrator who may impose additional penalties including suspension or debarment.
        - If the Attorney General or appropriate regulator determines, based on the information provided in response to the subpoena, that the facts relating to the covered cybersecurity incident or ransom payment at issue may constitute grounds for a regulatory enforcement action or criminal prosecution, the Attorney General or the appropriate regulator may use that information for a regulatory enforcement action or criminal prosecution.
        - Covered incident or ransom payment reports to CISA shall not be used by the Federal government or any SLTT government to investigate or take another law enforcement action against the entity or third party.
        - An entity that submits a report is not granted immunity from law enforcement for making a ransom payment otherwise prohibited by law.
- When determining whether to impose a penalty on an entity, the Director shall consider the size and complexity of the entity, the complexity in determining if a covered incident has occurred, prior interaction with CISA or awareness of the entity of reporting policies and procedures.
- **Exclusions – This section (Noncompliance with Required Reporting) shall not apply to a state, local, Tribal, or territorial (SLTT) government entity.**
- The CISA Director shall submit to Congress an annual report on the above noncompliance enforcement.

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Information Shared with the Federal Government [pg. 64]

- Information provided to CISA under these requirements may be disclosed to, retained by, and used by, consistent with Federal law, any Federal agency or department, component, office, employee, or agent of the Federal Government solely for –
    - A cybersecurity purpose;
    - The purpose of identifying a cybersecurity threat including the source of the threat or a security vulnerability;
    - The purpose of preventing or mitigating a specific threat of death, serious bodily harm, or serious economic harm including a terrorist act of a use of a weapon of mass destruction;
    - The purpose of responding to, investigating, or prosecuting a serious threat to a minor including sexual exploitation or physical safety; or
    - The purpose of the purpose of preventing, investigating, disrupting, or prosecuting an offense arising out of a covered cybersecurity incident or any of the offenses listed in section105(d)(5)(A)(v) of the Cybersecurity Act of 2015 (6 U.S.C. 1504(d)(5)(A)(v)).]
- Upon receiving a report, CISA shall immediately review it to determine if the threat or incident is ongoing and, where applicable, use the report to identify, develop, and rapidly disseminate anonymized threat indicators and defensive measures.
- The Director shall develop principles for sharing information related to security vulnerabilities consistent with industry best practices and US and international standards.
- Information contained in required reports should be retained, used, and disseminated in a manner consistent with processes for the protection of personal information in section 105 of the Cybersecurity Act of 2015 and in a manner that protects personal information of a specific individual or information that identifies a specific individual not directly related to a cybersecurity threat.
- The Office shall follow established standards for the digital security of reports.
- A government entity shall not use information obtained solely through reports to regulate the lawful activities of any non-Federal entity.
- The submission of a report shall not constitute a waiver of any applicable privilege or protection provided by law, including trade secret protection and attorney-client privilege.
- **Information contained in a report shall be exempt from disclosure under the Freedom of Information Act (FOIA) and any state, tribal, or local provision of law requiring disclosure of information or records.**
- The submission of a report shall not be subject to a rule of any Federal agency or department or any judicial doctrine regarding ex parte communications with a decision making official.
- The submission of a report shall be entitled to certain liability protections (see pg. 66).
- CISA shall anonymize the victim who reported the information when making information provided in reports available to critical infrastructure owners and operators and the general public.

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- Information in reports shall be considered proprietary information of the reporting entity when designates as such.

Federal Sharing of Incident Reports [pg. 67]

- Any federal agency that requires an entity to report a cyber attack shall provide all such information to CISA within 24 hours. The CISA Director shall comply with the obligations of the recipient federal agency and the sharing of reports shall be exempt from FOIA.
- CISA shall create and intergovernmental Cybersecurity Incident Reporting Council to coordinate, deconflict, and harmonize Federal incident reporting requirements for covered entities and entities that make a ransom payment.
- The National Cyber Director and the CISA Director shall coordinate to harmonize federal reporting requirements.

Ransomware Vulnerability Warning Pilot Program [pg. 68]

- Within 1 year of enactment, the CISA Director shall establish a ransomware vulnerability warning pilot program to leverage existing authorities and technology to specifically develop processes and procedures, and to dedicate resources, to identifying information systems that contain security vulnerabilities associated with common ransomware attacks, and to notify the owners of those vulnerable systems of their security vulnerability. The pilot program shall terminate for years after enactment.

Ransomware Threat Mitigation Activities [pg. 69]

- Within 180 days of enactment, the National Cyber Director with the Attorney General and the FBI Director shall establish and chair the Joint Ransomware Task Force to coordinate an ongoing, nationwide campaign against ransomware attacks and pursue opportunities for international cooperation.
    - The Task Force shall consist of appropriate Federal agency participants as determined by the National Cyber Director with the DHS Secretary.
    - Utilizing only existing authorities of members, the Task Force shall coordinate on–
        - Prioritization of intelligence-driven ransomware disruption;
        - Establishing mechanisms for stakeholder input from SLTT governments and the private sector
        - Identifying and updating a list of highest threat ransomware entities;
        - Disrupting criminal ransomware actors, their infrastructure, and their finances;
        - Facilitating ongoing federal coordination on actions against ransomware;
        - Collection, sharing, and analysis of ransomware trends;
        - Creation of After-action reports; and
        - Other activities to mitigate the ransomware threat.

Clarifying Private-sector Lawful Defensive Measures [pg. 69]

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- Within 180 days, the DHS Secretary, National Cyber Director and Attorney General shall submit a report to Congress that describes defensive measures that private-sector actors can take when countering ransomware attacks and what laws need to be clarified to enable that action.

Congressional Reporting [pg. 70]

- Within 30 days of issuing the interim final rule, the CISA Director shall submit to Congress a report that describes how CISA engaged stakeholders in the development of the interim final rule.
- Within 1 year of enactment, the CISA Director shall submit a report to Congress on opportunities the Cyber Incident Review Office has identified for using cybersecurity incident data to inform and enable cybersecurity research within the academic and private sector;
- The CISA Director shall annually submit a report on the effectiveness of the pilot program.
- The CISA Director shall submit a report on harmonizing Federal cybersecurity incident reporting requirements.
- Within 2 years of enactment, GAO shall issue a report on the implementation of this legislation.
- Within 1 year of the final rule, the CISA Director shall submit a report on the effectiveness of the enforcement measures for the reporting requirements.

AMERICAN OVERSIGHT

From:	Sam Taylor
To:	"mei wang"; Secretary
Cc:	Kelly Hancock; jeff.cason@house.texas.gov; beverly.powell@senate.texas.gov; matt.krause@house.texas.gov; jane.nelson@senate.texas.gov; stephanie.klick@house.texas.gov
Subject:	RE: False hand count results - Nov 2020 election - SOS Phase 1 Audit Results in Tarrant County
Date:	Thursday, January 6, 2022 2:28:10 PM
Attachments:	1_Four_County_Partial_M_C_2020.xlsx image001.png

Ms. Wang,

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> *Under TEC Section 127.201, counties are required to conduct a manual count in at least one percent of the election precincts or in three precincts, whichever is greater, in which an electronic voting system was used in a general election. The SOS is responsible for choosing the race(s) and precinct(s) used to conduct the partial manual count in a general election. For the November 2020 Election, the office of Texas Railroad Commissioner was chosen as the race for which counties conducted their respective partial manual counts. In order to protect the security and integrity of the voted ballots, the SOS has provided alternate Election Day locations for the partial manual count for counties that are part of the Countywide Polling Place Program (CWPP). This is done to ensure that the accuracy of the voting system equipment is thoroughly audited in a specific location while also ensuring that fewer election office personnel are handling voted ballots from across the county. None of the four counties reported any discrepancies in Election Day ballots counted electronically versus those counted by hand.*

We published the numbers of the electronic count (those counted by ballot tabulators) versus the hand count (counted manually) exactly as they were reported to us by all four counties, including Tarrant County.

Our office can assure you that should we discover any additional discrepancies during our Phase 2 in-person comprehensive document examinations, those will be included in the final report.

Best,

Sam Taylor
Assistant Secretary of State for Communications
Office of the Texas Secretary of State
smtaylor@sos.texas.gov
Office: 512-463-6116
Cell: 512-538-5293

AMERICAN OVERSIGHT

From: mei wang <[redacted]>
Sent: Thursday, January 6, 2022 2:12 PM
To: Secretary <Secretary@sos.texas.gov>
Cc: Kelly Hancock <kelly.hancock@senate.texas.gov>; jeff.cason@house.texas.gov; beverly.powell@senate.texas.gov; matt.krause@house.texas.gov; jane.nelson@senate.texas.gov; stephanie.klick@house.texas.gov; Sam Taylor <SMTaylor@sos.texas.gov>
Subject: False hand count results - Nov 2020 election - SOS Phase 1 Audit Results in Tarrant County

CAUTION: This email originated from OUTSIDE of the SOS organization. Do not click on links or open attachments unless you are expecting the email and know that the content is safe. If you believe this to be a malicious or phishing email, please send this email as an attachment to Informationsecurity@sos.texas.gov.

Hello, Mr. Secretary of State John Scott:

I am a citizen live in Tarrant County, Texas.

I have read the released documents of TX SOS election audit phase 1. I took this audit seriously and hope it approves the election been with integrity or finds the problems.

Just want to report this finding about the SOS audit hand-count results for Tarrant County seven precinct ballots .

The hand count comparison results of the seven precincts have been reported in SOS document dated on Dec.31,2021. This document shows the hand count results agreed to the electronical results. However, neither the numbers of the electronic count or the comparison numbers from hand counts of the seven precincts were agreed to the county report: - precinct report - published in Tarrant county website: https://www.tarrantcounty.com/content/dam/main/elections/2020/1120/reports/precinct.pdf

Tarrant County Precinct report vs Electronic count/handcount:

Prcnt 1061: 176 vs 714
Prcnt 1460: 1744 vs 1510
Prcnt 2381: 392 vs 738
Prcnt 3160: 1768 vs 1878
Prcnt 4285: 487 vs 354
Prcnt 4452: 2415 vs 2098
Prcnt 4591: 2230 vs 1869

Please see the attached details and each top page of the seven precinct reports by the

AMERICAN OVERSIGHT

county for backing up this finding.

There are more discrepancies between absentee ballots, early voting in person and Election day in person in this hand count samples when comparing to the county published election results. The discrepancies are material. Thus the hand count results are 100% false!!

What is "the electronic count"? Where "the electronic count " numbers come from? Who provided "the electronic count" to Phase 1 for the sampling check? Who conducted the hand count? I suggest that the SOS audit requires a full hand count/verification on all Ballots of Tarrant County due this false results - this is what would happen to a private business when such false information provided for a Tax audit - Our government should not be an exception. Each task conducted should be fully transparent to citizens. I personally would like to be a citizen observer if any hand count conducted in the county.

I would like to request a formal response regarding to my report and my questions. I would love to answer any question from you.

Thanks!

Sincerely,

Xiaomei Wang
3708 Burgee Ct.,
Fort Worth, TX 76244
Phone#: 682-203-8584

Also copied to some State rep's and Senators.

AMERICAN OVERSIGHT

From:	mei wang
To:	Secretary; Sam Taylor
Cc:	Kelly Hancock; jeff.cason@house.texas.gov; beverly.powell@senate.texas.gov; matt.krause@house.texas.gov; jane.nelson@senate.texas.gov; stephanie.klick@house.texas.gov
Subject:	Re: False hand count results - Nov 2020 election - SOS Phase 1 Audit Results in Tarrant County
Date:	Thursday, January 6, 2022 4:38:11 PM
Attachments:	1_Four_County_Partial_M_C_2020 SOS.xlsx image001.png

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Hi, Mr. Taylor:

Could you provide me the keys for the following headers in your attached file for the manual count in Phase 1?

CORDER
VSID
CANDIDATE_NAME
VOTINGSYS
EVBMEC
EVBMMC
EVIPEC
EVIPMC
EDEC
EDMC
PROV
TXTEVBMEC
TXTEVBMMC
TXTEVIPEC
TXTEVIPMC
TXTEDEC
TXTEDMC
TXTPROV
ALTPC
TXTALTPCT

Thank you very much!

Sincerely,
Xiaomei Wang

On Thursday, January 6, 2022, 02:27:55 PM CST, Sam Taylor <smtaylor@sos.texas.gov> wrote:

AMERICAN OVERSIGHT

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smtaylor@sos.texas.gov

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AMERICAN OVERSIGHT

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AMERICAN OVERSIGHT

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Fort Worth, TX 76244

Phone#: 682-203-8584

Also copied to some State rep's and Senators.

AMERICAN OVERSIGHT

From: Sam Taylor
Sent: Monday, January 10, 2022 8:41 AM
Subject: SOS Morning News Clips 1/10/22

Sensitivity: Personal

Texas Secretary of State
Morning News Clips
January 10, 2022

GOP push for handing-counting paper ballots is latest effort to cast doubt on elections, *CNN*, January 10, 2022

Getting ready for the Texas primary elections, *KBTX-TV*, January 7, 2022

Lubbock Co. making the switch to paper-based voting system, *KAMC-TV*, January 7, 2022

New voting system will cost Lubbock County around $4 million up front, *KCBD-TV*, January 7, 2022

Texas GOP's voting meme shows how Trump-style messaging wins internet's attention, *Texas Tribune*, January 8, 2022

Voter registration deadline looms, *Kerrville Daily Times*, January 7, 2022

Mosley Hired As County Elections Administrator, *Graham Leader*, January 8, 2022

Community groups promote the importance of voting to those who were formally incarcerated, *WOAI-TV*, January 8, 2022

Court rejects state Rep. Art Fierro's effort to rule Rep. Claudia Ordaz Perez ineligible to challenge him in Democratic primary, *El Paso Matters*, January 7, 2022

Texas Supreme Court denies GOP challenge to Harris County's redistricting plan, *Houston Public Media*, January 7, 2022

Shelley Luther, anti-lockdown activist and GOP candidate, said Chinese students should be banned from Texas universities, *Texas Tribune*, January 7, 2022

AMERICAN OVERSIGHT

Invoking Jan. 6, Dems pivot to fight for voting legislation, *Associated Press*, January 10, 2022

'More soul searching:' Facebook's former elections boss speaks out about the platform, *CNN Business*, January 9, 2022

Democratic elections lawyer Marc Elias fights court sanctions as he gears up for midterm elections, *Washington Examiner*, January 7, 2022

Jury selection underway in trial of alleged U.S. consulate employee assassin, accomplice, *Border Report*, January 7, 2022

Mexico charges 7 in 'Fast and Furious' weapons trafficking, *Associated Press*, January 9, 2022

Human smuggling continues to be on the rise in South Texas, *KENS-TV*, January 7, 2022

Mexico cracks down on migrants from Venezuela, will require travel visas, *Border Report*, January 7, 2022

Moderna gives Mexico 2.7 million shots as deaths top 300,000, *Associated Press*, January 8, 2022

Abbott: I'm supporting a billion dollar electrical power line to the RGV, *Rio Grande Guardian*, January 9, 2022

Analysis: A Texas election in the shade of government's third branch, *Texas Tribune*, January 10, 2022

Editorial: The strange silence around Texas election audit, *Dallas Morning News*, January 9, 2022

GOP push for handing-counting paper ballots is latest effort to cast doubt on elections
Kelly Mena
CNN
January 10, 2022
https://www.cnn.com/2022/01/10/politics/republicans-push-for-hand-counting-paper-ballots/index.html

(CNN) – After more than a year of baselessly questioning the results of the 2020 election, some Republicans are casting doubt on how ballots are counted, part of a broader movement inspired by former President Donald Trump's lies about election fraud that is undermining confidence in America's vote.

In at least three states -- Utah, New Hampshire and Texas -- Republicans have pushed for banning traditional ballot scanning machines in favor of hand-counting paper ballots, an antiquated process that experts fear could inject error into an election system where very little has been found. Critics also worry that the inevitable delay in results from hand counting would be an opportunity for those looking to sow doubt about the outcome of future contests.

Republicans have already seized on Trump's unfounded claims to launch partisan audits and enact restrictive voting laws ahead of this year's midterms. And now they're targeting the tabulation of votes by suggesting, without evidence, that there's a problem -- even in places where Trump or down-ballot Republicans won in 2020.

One GOP county chair in Texas, for example, said he has "concerns" about the election, even though Trump won the Lone Star State by more than 630,000 votes, and there's no evidence that fraud or irregularities influenced results there or anywhere else.

"I trust people. I don't trust electronics," Daniel Rogers, chair of the Republican Party in Potter County in the Texas Panhandle, told CNN in explaining his push for hand counting ballots. "I have computers; they don't always do what we want."

Returning to hand counting ballots is not a new concept. Punch-card ballots, which were miscounted by voting machines in Florida due to hanging bits of paper ("hanging chads") became a point of contention in the disputed 2000 election. Since then, voting machines have come under increased scrutiny, which Republicans have intensified after Trump began launching baseless allegations of fraud.

But the premise behind moving back to hand-counting -- that it's somehow more secure -- isn't supported by much evidence.

Douglas Jones, a retired professor of computer science at the University of Iowa and a voting machine expert, said there are rare instances in which voting machines could cause major election issues. But it usually takes a human to mess things up.

"In the United States, the mechanical voting machine doesn't make any clerical errors unless someone makes an error in configuring the machine, and then they are huge," Jones told CNN.

Hand counting only works in elections where there is one issue on the ballot, like special elections or in off-cycle election years, he said. In larger elections where there are multiple candidates and positions to fill, Jones said, voting machines are best because hand counts are then subject to "clerical errors," such as the possibility of election officials forgetting to include a precinct in the final results or counting a precinct twice.

Jones characterized the isolated instances of vote discrepancies that some Republicans have seized upon -- none of which have influenced results -- as no more than "sloppiness."

"They tend to be reporting sloppiness that's quite real. But it doesn't amount to a systematic deal. It amounts to people under high pressure, trying to get things done quickly and making mistakes," Jones said.

Those "same mistakes you can make when you're hand counting," he added.

Republicans seize on small-town New Hampshire controversy

Republicans in the New Hampshire state House have pre-filed proposed legislation that would ban the use of ballot-scanning machines in favor of hand counting ballots.

State Rep. Norman Silber, one of the sponsors, told CNN that the bill is about restoring what he thinks is lost confidence in the voting process. But the bill is sparking criticism from Democrats, like state Rep. Matt Wilhelm, who told The New York Times last month that drawing out time to announce results could create more opportunities for challenges to the election's legitimacy.

"If they've got an additional window of time of hours, days, weeks when Granite Staters don't know the results of the election that they just participated in, that's going to cast doubt on our democratic institutions," Wilhelm told the newspaper.

In making the case for the bill, Silber pointed to a discrepancy over 2020 state legislative results in the small town of Windham, which Trump and his allies had seized on to cast doubt about the election. (Trump lost the Granite State by nearly 60,000 votes -- a much more significant deficit than the votes in question in Windham.)

The controversy began when a hand recount requested by one of the losing candidates found that decades-old machines had undercounted ballots for four Republican state legislative candidates by about 300 votes and overcounted by 99 the votes for a Democratic candidate. Those small discrepancies, however, didn't make any difference in the overall results -- the four Republicans still won and the Democrat lost.

GOP Gov. Chris Sununu then signed a measure authorizing an audit, but even he said at the time that an isolated incident like the one in Windham was not a reason to worry about the state's elections. "New Hampshire elections are safe, secure, and reliable," he said last April. "Out of the hundreds of thousands of ballots cast this last year, we saw only very minor, isolated issues -- which is proof our system works."

The audit revealed the cause of the discrepancy to be "folds" through vote bubbles on some absentee ballots resulting from election officials using "a machine to fold absentee ballots," according to a report from the secretary of state and attorney general's offices.

"We found no basis to believe that the miscounts found in Windham indicate a pattern of partisan bias or a failed election," read the state's report.

And Deputy Secretary of State David Scanlan, a former Republican state representative, pushed back against the notion that the Windham incident was a problem with the scanning machines, saying it stemmed from the decision by the local election officials to use a "folding machine that was in the office" due to the large workload.

Under state law, towns and cities have the right to decide if they want to use ballot counting machines, according to Scanlan, but he added that vote-counting discrepancies are most likely to occur in a hand count.

Still, some voters in other Granite State towns like Hampton, Greenland and Kensington, have pushed to move to hand counting.

Douglas Wilson, who led the failed effort in Greenland, said in introducing his petition in November that he had "faith in poll workers and it's the machines that are the problem." Wilson pointed to concerns he had about the handling of memory cards and microchips inside the voting equipment and possible tampering.

But those doubts were quickly dispelled by the town's chief elections officer, Dean Bouffard, who explained that memory cards and microchips are handled by election officials only and are tested and sealed before use. Bouffard also said that voting machines aren't connected to any wireless network and thus can't communicate through the internet. Greenland voted last month against banning voting machines with a final vote of 1,077 to 120.

AccuVote machines have been used in New Hampshire since the mid 1990s, according to Secretary of State's office, and Scanlan said there's no evidence any have been hacked, echoing Bouffard that they are "are stand-alone devices with no wireless capability, and all external ports have been disabled."

Other voters like Hampton Selectman Regina Barnes have raised concerns over the age of the machine's software, calling it a "big concern" at an October meeting.
Scanlan admitted to CNN that the software is old but that "he is not aware of any glitches," saying the machines are "very accurate, provided the voter properly marks the ballot with them."

Petition drive in Utah

A proposed ballot initiative in Utah, where Trump won handily in 2020, aims to return the state to in-person voting at local precincts, with all ballots, including absentee ballots, being hand counted by election judges on election night.

Utah is one of a handful of states that conducts its elections almost entirely by mail, according to the National Conference of State Legislatures. All registered voters are sent a ballot without needing to request one. Most of the state uses ES&S machines for tabulating votes, according to Ryan Cowley, the state's director of elections.

The initiative to ditch those machines is being spearheaded by Secure Vote Utah, an organization led by Lew Moore, who managed the 2008 GOP presidential campaign of former Texas Rep. Ron Paul.

Moore emphasized that he isn't "making any allegations about anything that might have happened" in Utah or accusing anyone of "malfeasance." But he went on to baselessly cast doubt on the machines tabulating votes.

"They're just machines whirling around you. I mean, you don't know what's going on with these machines," he said.

But Cowley does know. Every county conducts a pre-election test on its voting machines to ensure that they are properly reading ballots, he told CNN. And after an election, he added, each county performs a "public audit," which takes about 1% of each county's ballots and compares how the machines read the ballots with how the ballots were cast.

"There has never been a discrepancy in those totals and how those ballots were counted," Cowley said.

Concerns about hand counts in Texas

Trump also won by a large margin in Texas, where Rogers, the county chairman, wanted the March Republican primary in his county to be counted by hand.

His proposal was met with surprise and logistical concerns from Melynn Huntley, the elections administrator for Potter County, who said the full count could take as long as 20 to 22 hours.

She also raised concerns that it would lead to confusion among voters because of rules about where primary voters could cast their ballots in the primary versus in the general election. Primary voters would have to go to their neighborhood polling place as opposed to voting centers around the state where any registered voter can go.

Rogers ultimately abandoned his plan after county commissioners failed to pass his resolution -- and although his statement at the time acknowledged some of those same logistical concerns about GOP voters having to use two different voting methods in the primary and the general election -- he hasn't given up.

He has vowed to keep pushing for a hand-marked and hand-counted ballot process, repeating unfounded claims about its superior security.

"We will continue to further advocate for ideas and solutions voters can be confident in that require hand-marked ballots and are cost-effective, reliable, secure, and superior in preventing fraud," said Rogers.

Regardless of Rogers' efforts, some changes are coming to the county's current Direct Recording Electronic system, in which voters make their choices on a digital terminal that records vote totals directly into computer memory. Huntley said the county is moving toward a voter verified paper system in which voters' choices will include a paper back up. Mail-in voting is the only method that currently uses paper.

Amid its 2021 efforts to make voting harder in the state, the GOP-led legislature passed a bill that requires all counties to start moving toward voting machines that offer a paper trail by 2026.

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Getting ready for the Texas primary elections
Megan Calongne
KBTX-TV
January 7, 2022
https://www.kbtx.com/2022/01/08/getting-ready-texas-primary-elections/

BRYAN, Texas (KBTX) - Early voting for the Texas primary elections is coming up on Valentine’s Day. Here’s what you need to know about the races.

After two weeks of early voting, Texas will hold its 2022 primary elections March 1. Each party will choose its candidate for seven statewide seats — governor, lieutenant governor, attorney general, land commissioner, agriculture commissioner, comptroller and one of three seats on the Railroad Commission. Republicans and Democrats will also choose their candidates to face off in November for district-based congressional and legislative offices, the State Board of Education and judicial seats.

If no candidate receives a majority of the vote in the primary, those with the top two votes will compete in a runoff May 24. Texas is an open-primary state, so voters can decide every two years whether to pick Republican or Democratic nominees. Remember, you can only vote in one party's primary, and in that same party's runoff. You do have the choice to vote for either party's candidate during the general election, despite whoever you voted for in the primary.

We were joined by Ross Ramsey, executive editor of the Texas Tribune who informed us that redistricting could hinder the election date. He explained the legislature just did new redistricting maps and "the opponents of those maps sued in federal court. Every once in a while we get a delay in the election because the courts find a problem in the maps." Although he admits "this looks less likely now than it did probably a month ago."

When asked about Governor Greg Abbott's campaign Ramsey noted that his emphasis this time is on south Texas. The reason for that being that in 2020 Republicans did "unusually well" in south Texas. He clarified that "they won in a lot of counties they had not won before, and they lost by less than they lost by before."

When asked about Abbot's Republican competitors, Ramsey did not think he had anything to worry about. He explained the problem for these other Republicans is that "the people who are most unhappy with Greg Abbot are Democrats and won't be voting in the March primaries."

According to Ramsey one race to watch is House district 31. The incumbent, Ryan Guillen, was elected as a democrat but the Republicans got him to switch parties. So this year he will be running as a Republican.

On the question of if redistricting will have an effect on elections, Ramsey said it will make a difference race by race, but looking at the maps it leans a little bit more to the Republicans. He explained that "if your looking at the whole picture the Republican majorities in the Texas house and Senate and in the Congressional delegations should hold."

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Lubbock Co. making the switch to paper-based voting system
James Clark
KAMC-TV
January 7, 2022
https://www.everythinglubbock.com/news/local-news/lubbock-co-making-the-switch-to-paper-based-voting-system/

LUBBOCK, Texas — Lubbock County Commissioners will vote Monday "to move to a paper based voting system" in future elections.

Commissioner Jason Corley said the current voting machines, including the touch screen interface, will remain the same but simply be connected to a printer for a paper record.

The Texas Legislature passed the Election Integrity Protection Act of 2021 which requires auditable voting systems. Auditable means it creates a paper record that the voter can see.

“[In some ways,] it’s kind of like getting a receipt,” Corley said. But the receipt stays with the election staff. Voters can look over the ballot before turning it in. But state law does not allow the paper record to be “retained by the voter.”

The new law says, “Electronic voting machines may not be used in an election unless the system is an auditable voting system.”

There are provisions which allow for the electronic counting to be used as the official result. But it requires an audit and “strong evidence” that the electronic results are consistent with the paper records.

The commissioners will vote on two provisions. One is to make the changes to the voting machines, and the other is to seek state money to pay for the changes. The cost was not listed in the commissioners’ meeting agenda for Monday.

Corley said the timing is still not entirely certain, but state law requires the change to be no later than September 1, 2026.

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New voting system will cost Lubbock County around $4 million up front
Joshua Ramirez
KCBD-TV
January 7, 2022
https://www.fox34.com/2022/01/08/new-voting-system-will-cost-lubbock-county-around-4-million-up-front/

LUBBOCK, Texas (KCBD) - Lubbock county will change its voting process this year to comply with new state regulations involving election integrity. Senate bill 598 requires all elections in Texas to use an auditable system. That means Lubbock county will have to move to a system using both electronic tools and paper ballots. It’s a switch that will cost the county millions of dollars up front.

“This is mandated by the state,” County Judge Curtis Parrish said. “This isn’t something that we decided to do. This is something that the state is ordering us to do, and it’s going to cost the citizens of Lubbock about $4 million to do.”

That money will update the county’s voting machines with new equipment to print out ballots when they’re submitted. Lubbock county must foot the bill for the changes in hopes that the state will pay it back.

“We do this as a grant application,” Parrish said.

Commissioners plan to approve that application Monday. After that, the ball will be in the state's court.

"We have to pay for it up front," Parrish said. "Then we have to depend on the state to follow through with their promise to reimburse us the cost."

Under the new system voters will still fill out their ballots digitally, but now, when they are finished, they will receive a printed version of that ballot. That is what administrators will use to determine winners. That will create both a digital and a paper trail. Which state lawmakers claim will ensure voting integrity.

"If there is a challenge, or if there is a recount now we're able to go back to both systems," Parrish said. "Both the hard copy and the electronic copy to make sure that our votes are verified."

That's an issue Judge Parrish says Lubbock hasn't had to deal with. He says the county has gone above and beyond to ensure all votes are counted, and counted accurately. Errors, Judge Parrish says, are not tolerated.

"Zero. That's my standard of error," Parrish said. "At the end of the day you know when you go to the polls, and you vote for your candidate that vote is counted accurately fairly."

Parrish says Lubbock has always maintained a gold standard when I come to elections, and a new process won't change that.

"Lubbock's election system is accurate, it's fair and it works," Parrish said. "I also believe this. That this new system that we will be putting in place will also be accurate and fair and will work."

Once it is approved, the switch from the current system to the new one will start immediately. It must be completed before November elections later this year.

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Texas GOP's voting meme shows how Trump-style messaging wins internet's attention
Erin Douglas
Texas Tribune
January 8, 2022
https://www.texastribune.org/2022/01/08/texas-gop-voting-covid-meme-trump/

A Twitter meme posted on Friday by the Republican Party of Texas that compared waiting in line for COVID-19 tests to waiting in line to vote quickly provoked anger from the left, giddiness from the right, and rose to one of the top trending posts on the platform that day.

In other words, experts on propaganda and internet misinformation said, the meme did exactly what it was intended to do.

“The goal is to further divide people, but divide them by making them feel they’re part of a group,” said Sam Woolley, an assistant professor at the University of Texas at Austin who also serves as the project director for propaganda research at the Center for Media Engagement.

He added that such an approach is “driven by a perspective that other people who don’t believe what you believe are the enemy, rather than fellow Americans.”

The meme, which came from the official account for the Texas GOP, used a photo of a COVID-19 test site line in New York and included the text, “If you can wait in line for hours for testing … You can vote in person.” It was a message that some critics said suggested that excessive waiting times are acceptable and that made light of issues that disproportionately affect communities of color.

Such memes, according to experts, are part of a growing political social media strategy that has become successful in recent years: Package complicated information into short, simplified bites, and use it to divide people into distinct groups that are opposed to one another.

“You are being rage farmed,” John Scott-Railton, a senior researcher of disinformation and cyberattacks at the University of Toronto’s Citizen Lab, wrote in a tweet to people who were reacting angrily to the meme. He said that responding to the tweet was providing the GOP with a bigger megaphone: “Your angry quote tweet = the goal.”

Polarizing memes have become more prominent in American politics since the election of former President Donald Trump, said Woolley, adding that social media accounts for Republicans and Democrats have used them as tools. On the left, Occupy Democrats, a group that publishes wide-reaching political posts on its website and social media accounts, has utilized such polarized memes to build a social media following on Facebook. Far-right Republican groups have used politically divisive memes to attack supporters of expanded voting measures, Black Lives Matters protestors and to push against masks and vaccines.

But Woolley said the Texas GOP’s meme is distinct because it was released from the official social media account of a political party. The meme marks a departure from the account’s typical photo posts, which tend to focus on legislation, events, and announcements.

“It's uncommon, and especially concerning, that this comes from the official Texas GOP account,” Woolley said.

Earlier this year, the Texas Legislature passed new restrictions on voting, supported by the Republican Party, that banned 24-hour voting and added new voter ID requirements. GOP leaders also unsuccessfully pushed Gov. Greg Abbott to call state lawmakers back for a fourth special session to ban vaccine mandates. The governor instead issued an executive order banning vaccine mandates.

A spokesperson for the Republican Party of Texas said in a statement to the Tribune that it’s hypocritical for the Biden Administration to allow people to stand in line to get a COVID-19 test, but endorse voting-by-mail as a means to reduce the spread of COVID-19 from standing in line and in-person interactions.

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“If one is safe, so is the other,” James Wesolek, spokesperson for the Republican Party of Texas, wrote in a statement. “We enjoyed watching liberals lose their minds when confronted with the truth yesterday.”

Similar rhetoric to the one used in the Texas GOP meme on Friday emerged in far-right social media posts as early as spring 2020. Public health experts and election security experts had recommended that states use mail-in ballots as an alternative to in-person voting to avoid spreading the coronavirus to vulnerable populations. In response, far-right groups began sharing memes that compared waiting in line to vote to other common activities for which people have to wait in line.

One meme that was reposted by Texas Agriculture Commissioner Sid Miller showed a photo of a line of customers waiting outside of a store with carts and another that showed a line to vote. “If you can do this six feet apart … you can do this six feet apart,” the meme stated.

The formula evolved in the summer of 2020 when Black Lives Matter protests swept the nation in response to the police killing of George Floyd. Former President Donald Trump tweeted on Aug. 19, 2020: “IF YOU CAN PROTEST IN PERSON, YOU CAN VOTE IN PERSON!”

The Friday meme, which followed the same formula, drew criticism from several Democrat politicians, policy experts and other Twitter users who said COVID-19 testing and voting should be made more accessible by the government, and that lines create delays and challenges that disproportionately disenfranchise voters of color.

The tweet garnered more than 12,000 retweets and more than 52,000 likes by 9 p.m. Saturday on Twitter. The angry reactions increased attention on the meme, something the Republican Party recognized in a later tweet, pointing out that “Texas GOP” was Twitter’s No. 4 trending topic in the U.S. on Friday.

“Cry more,” another post by the Texas GOP stated, after saying that the meme made “pronouns in bio people” mad.

The anger tends to overly simplify what may otherwise be a complex bipartisan issue, said James Slattery, a senior staff attorney at Texas Civil Rights Project, which advocates for equal access to voting in elections.

“No one really enjoys wasting time in lines for hours,” Slattery said. “You shouldn't have to wait in line to vote, and you shouldn't have to wait in a long line to get tested for COVID.”

Long voting lines disproportionately impact voters of color, research has found. A 2020 University of California at Los Angeles study found that people who live in predominantly Black neighborhoods wait 29% longer to vote than those who live in predominantly White neighborhoods.

The longer voters must wait to cast their ballots, the less likely they are to vote, Slattery said. He said the leading causes of long voter lines in Texas in recent elections stemmed from staffing shortages during a surge of voter turnout, lack of resources or training for poll workers that causes machine malfunctions and logistical problems, and polling place closures in the state. Texas counties have closed more polling places than any other state, according to a 2016 analysis by the Leadership Conference on Civil and Human Rights.

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“State and local governments should make it easier for people to vote because at the end of the day it’s about holding those governments accountable,” Slattery said. “Voting is not like almost any other activity in our society. You have a fundamental right to vote that is critical to the survival of our democracy.”

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Voter registration deadline looms
Sean Batura
Kerrville Daily Times
January 7, 2022
https://dailytimes.com/promotions/article_4c00b20a-7034-11ec-8176-ebd9693975fc.html

Those who are registered to vote by the Jan. 31 deadline will have an opportunity to select who will receive the Republican Party’s nomination in two contested county races: district clerk and precinct 2 county commissioner.

Those who are not registered to vote can do so at the Kerr County Courthouse, 700 Main St., Suite 124; request a postage-paid voter registration form at https://webservices.sos.state.tx.us/vrrequest/index.asp; or download an application at https://vrapp.sos.state.tx.us/index.asp for submission in-person or by mail to the county elections office at the courthouse.

The most contested county race this year is for county commissioner Precinct 2, in which five Republicans are seeking their party’s nomination. Two Republicans are vying for the post of district clerk. No Democrats are seeking either office or any other county office this year, according to data from the Texas Secretary of State’s Office.

The Republican candidates for Precinct 2 commissioner are Sonya Hooten, Stan Kubenka, Richard Paces, Jack Pratt and John Sheffield. Kubenka and Paces filed last August, Hooten filed in October, Pratt filed sometime before Dec. 1 and Sheffield in late December.

Sonya Hooten
Hooten, the executive assistant to Kerr County Sheriff Larry Leitha, is a fifth-generation resident of Kerr County who was a long-time secretary at Center Point Independent School District before retiring in 2019. She worked for then-Sheriff Rusty Hierholzer as an administrative assistant and stayed on at the agency after Leitha took office in January. Hooten has been married to her husband for more than 30 years and is the mother of a 27-year-old son.

Her website can be found at https://bit.ly/3DYMhAo.

Stan Kubenka
Kubenka, who lives south of Kerrville, graduated in 1976 from Southwest Texas State University — now Texas State University — with an accounting degree, and he participated in the Stanford University Executive Management Program in 1982. He was a manager for decades of the Kerrville branch of Insco Distributing, which is one of the largest HVAC distributors in the state. A brochure on his candidacy reads that he worked for Insco for 41 years.

Kubenka is a member of the NRA and the Texas Public Policy Foundation. He is a licensed plumber, and he's served as a Republican precinct chair and a delegate to the state Republican convention.

Kubenka's site can be found at https://bit.ly/3phmAHH.

Rich Paces
Paces, who lives in Center Point, graduated from Ohio State University in 1979 after studying chemical and petroleum engineering. He went on to gain 36 years of experience in the oil and gas industry, according to his website.

He has worked for various companies, serving as a director of development and operations, a chief operating officer on three occasions, a vice president and country manager and a petroleum engineer. He's been involved in projects ranging from $50 million to $2 billion, according to his website.

Paces' site can be found at https://bit.ly/3ziRFx3.

Jack Pratt
Pratt, a former mayor of Kerrville and veteran of the U.S. Army, has served on the boards of the Kerrville Economic Improvement Corp. and the Headwaters Groundwater Conservation District. His campaign website describes him as a no-nonsense, Christian conservative who favors less government. The site also describes him a strong leader and a patriotic visionary who is supportive of maintaining Second Amendment rights and who is pro-life and transparent in his dealings in public office.

Pratt's website can be found at http://pratt4pct2.com/.

John Sheffield
Sheffield, who owns and runs Ole Ingram Grocery with his wife, has lived in Kerr County since 1992 and has owned the store for 21 years, he told The Kerrville Daily Times. He has a stepson and two daughters.

Sheffield has seen first-hand what family businesses have dealt with due to COVID-19-related challenges, and his role at the store in downtown Ingram puts him in the position to talk with many members of the public on a daily basis about other important issues facing the county, he said.

He's been critical of recent property tax increases and salary increases for county employees. Sheffield said the first thing he'd do if elected is take a pay cut as an elected official.

Sheffield didn't have a website as of Thursday.

District clerk race

Those vying for the Republican Party's nomination to run for district clerk are incumbent Dawn Lantz and Francisco "Frank" Galvan. Galvan works at the Kerrville Police Department supervising dispatchers as the public safety communications manager. More about Galvan and Lantz can be read at https://bit.ly/3f0l8mS.

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More information on all candidates will be released in the near future.

Stay abreast of other races at https://dailytimes.com/election/

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Mosley Hired As County Elections Administrator
Mike Williams
Graham Leader
January 8, 2022
https://www.grahamleader.com/news/mosley-hired-county-elections-administrator

Young County will have a new elections administrator next week. After a closed meeting Tuesday at the Young County Courthouse, the Young County Election Commission voted unanimously on the hiring of Kaitlyn Mosley.

Mosley, who will start Monday, replaces Lauren Sullivan who left the position last month. She takes the position after two years as an assistant to Jack County Elections Administrator Lynn Casteel.

“Experience is the prime factor here,” Young County Judge and commission chair John Bullock said during the meeting Tuesday. “It’s basically that the interviewee had the experience on the system we use.”

Both Young and Jack counties use the Hart Verity Duo Touch Auditable Ballot System. Bullock said before Tuesday’s meeting that he was hoping for a quick hiring process.

“Like county government, in general, elections have become more and more complicated each time the legislature convenes,” Bullock wrote in an email to The Graham Leader. “We need to act (as soon as possible) but experience will play a big factor.”

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Community groups promote the importance of voting to those who were formally incarcerated
Amanda Henderson
WOAI-TV
January 8, 2022
https://news4sanantonio.com/news/local/groups-promote-the-importance-of-voting-to-those-who-were-formally-incarcerated

SAN ANTONIO — Community leaders want to make sure everyone has the opportunity to vote in 2022’s elections.

With some just months away these community advocates are getting a head start on their outreach.

“Today's about organizing our voting rights and our voting power,” All of Us or None Texas Executive Director Steve Huerta said.

Voting is a power Huerta hopes those formally incarcerated will also use.

That's the message behind Saturday's gathering.

“We don't tell people who to vote for. But we informed them about who's running and what the principles are. And we let them make that decision. We have to start taking up the responsibility of being more civically engaged,” Huerta said.

In Texas, you can regain your right to vote after finishing your sentence, which includes parole and/or probation.

Huerta, as well as everyone we spoke with for this story, was formally incarcerated.

As Bennie Price and Leonora Walker explain being able to help people in this situation is something they value.

“This is a country that will give you a second chance, the greatest country in the world will give its heavily populated, formerly incarcerated population, a second chance,” Price said. He is the CEO of Bib Mama’s Safe House.

“So many of us that have been through incarceration, don't have the education and knowledge about voting and our voting rights and what it does to help our people get the resources and education and have the platform to speak,” CEO and Founder of FREED Texas said.

It’s a platform Chivas Watson hopes everyone realizes can help make change happen.

“Like people evolve, the city evolves, the climate of voting evolves, you know. So, if anything to all that a formerly incarcerated here in Bexar County, stand up, get involved,” Watson said. Watson is with Working Group 512.

They also announced there will be a march in San Antonio on March 19, 2022 to “organize and encourage participatory democracy and civic engagement of communities impacted by mass incarceration.”

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Court rejects state Rep. Art Fierro’s effort to rule Rep. Claudia Ordaz Perez ineligible to challenge him in Democratic primary
Molly Smith
El Paso Matters
January 7, 2022
https://elpasomatters.org/2022/01/07/state-rep-art-fierro-asks-appellate-court-to-rule-claudia-ordaz-perez-ineligible-to-challenge-him-in-democratic-primary/

A Texas appellate court ruled late Friday that state Rep. Claudia Ordaz Perez is eligible to run in the Democratic primary election for Texas House District 79, rebuffing an effort by incumbent state Rep. Art Fierro to remove her from the March 1 Democratic primary ballot.

Fierro claimed Ordaz Perez will not have resided in District 79 for the required one year prior to the Nov. 8 general election and six months before the Dec. 13, 2021, filing deadline. The El Paso County Democratic Party refused to declare Ordaz Perez ineligible, so Fierro took his removal effort to court.

Ordaz Perez's current Texas House District 76 seat was drawn out of the new state legislative boundaries the Texas Legislature approved this fall. Her then-address became part of the redrawn Texas House District 77, held by state Rep. Lina Ortega, D-El Paso.

Rather than challenge Ortega, Ordaz Perez moved to a home in District 79 so she could run against Fierro. She changed her voter registration on Oct. 12, 2021, to that new address.

No other Democratic or Republican candidates filed for the District 79 seat.

Reached Friday before the court ruling, Ordaz Perez called Fierro's claim that she's ineligible to run "frivolous" and "a desperate attempt" to cast doubt on her candidacy.

Fierro did not return a request for comment.

In his initial Dec. 30 petition to the state's 8th Court of Appeals, Fierro argues Ordaz Perez is days short of meeting the one-year residency requirement for Texas of House Representatives candidates because it takes 30 days for a change of residence to take effect. Fierro sought a legal action known as a writ of mandamus, where an appeals court compels a public official — in this case El Paso County Democratic Party Chair Dora Oaxaca — to properly fulfill their duty.

But Oaxaca's attorney, John Mobbs, disputed that argument. Fierro named Oaxaca in his petition because she did not reject Ordaz Perez's application for a place on the ballot as he requested of Oaxaca two days after the filing deadline.

"Fierro simply has it backwards," Mobbs' filing states. "A person's qualification to vote follows their residency, it does not establish their residence."

"It is legally established that voter registration and voting records do not conclusively prove a candidate's residence for purposes of evaluating eligibility for office," the filing notes. "Moreover, the fact that a change to a voting registration record is not immediately effective does not establish that the voter is not a resident at their new address until the effective date of that change."

The six-month residency requirement Fierro cites does not apply to candidates for state representative, Mobbs said.

In a response filed Friday before the court's ruling, Fierro's attorneys — Rene Ordoñez, Daniel Ordoñez and Jenée A. Durán — appeared to narrow their claim alleging that Ordaz Perez was ineligible. The response focused solely on a state Election Code provision establishing a six-month residency requirement before the filing deadline. It didn't mention the earlier claim that Ordaz Perez does not meet the Texas Constitution requirement that a candidate reside in a district at least a year before the election.

The three justices on the appeals court unanimously agreed with Mobbs' arguments, saying in a 10-page ruling ruling that "Ordaz Perez satisfied the constitutional residency requirement to run for

House District 79, and the Election Code provision Fierro cites as an alternative basis for ineligibility does not apply to the office of state representative."

The justices said the state law establishing the six-month residency requirement before a filing deadline applied to many offices, but not to state legislative seats. "In short, Ordaz Perez is not required to show she resided in-district for at least six months prior to the primary election filing deadline, only that she began her residence within the district one year immediately preceding the general election as required by the Texas Constitution," the justices wrote in their ruling.

"I'm trying to figure out the real intent on why (Fierro) filed this and I can't quite figure it out," Ordaz Perez said. "He's on the (House's) elections committee and the law is pretty clear — I feel very confident about the case.

"The legal costs in all of this are very expensive. Are taxpayers going to have to foot this bill or is Art going to take on those costs when it comes back where it's dismissed?"

Early voting for the March primaries begins Feb. 14.

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Texas Supreme Court denies GOP challenge to Harris County's redistricting plan
Andrew Schneider
Houston Public Media
January 7, 2022
https://www.houstonpublicmedia.org/articles/news/politics/2022/01/07/416818/texas-supreme-court-denies-a-republican-challenge-to-harris-countys-redistricting-plan/

The Texas Supreme Court rejected an effort by Republican commissioners and voters to block Harris County's recent redistricting plan on Friday, suggesting another challenge still in the works will meet a similar fate.

In their challenge, the petitioners argued that the new maps amounted to illegal Democratic gerrymandering. The new precincts approved by Harris County leaders last year resulted in dramatic shifts that the challengers argued would disenfranchise voters in the upcoming primaries.

But in a narrow ruling, the justices found that they likely couldn't provide any relief to the challengers because the wheels of the election were already in motion.

"(N)o amount of expedited briefing or judicial expediency at this point can change the fact that the primary election for 2022 is already in its early stages," their opinion read. "This Court and other Texas courts are duty-bound to respond quickly to urgent cases that warrant expedited proceedings, but even with utmost judicial speed, any relief that we theoretically could provide here would necessarily disrupt the ongoing election process."

The result is that the new precinct maps will be allowed to stand. The Democratic majority on commissioners court adopted the maps on a 3-2 party line vote in October.

The new county map – the third proposed by Democratic Commissioner Rodney Ellis — redrew the county's precinct boundaries in such a way that shifted Republican Commissioner Tom Ramsey's Precinct 3 from western Harris County to the northern tier, and switched Republican Commissioner Jack Cagle's Precinct 4 from the north to the west.

The result is a less conservative constituency for Cagle: his precinct now includes more territory inside the 610 Loop and less within northwest Harris County than the current Precinct 3. Crucially, the new Precinct 4 is majority-minority, with a combined non-Anglo population of more than 70%.

Cagle is up for reelection in 2022. The new map has encouraged a crowded Democratic primary field, with four candidates vying to challenge the Republican incumbent. They include former civil court judge Lesley Briones, former state Rep. Gina Calanni, former county elections official Ben Chou, and Alief ISD board president Ann Williams.

If Cagle loses, Democrats would have a 4-1 supermajority, essentially eliminating the possibility of a quorum break. Just three votes are needed for a quorum in commissioners court, but four votes are needed in order to raise taxes.

Republicans on the court did break quorum in 2019 to stop a property tax rate hike. They threatened to do so again last year before reaching a deal on another rise in taxes.

Former Republican Commissioner Steve Radack has filed a separate lawsuit, arguing that the court took up the redistricting plan in violation of the Open Meetings Act. But the high court's ruling suggests it is unlikely to involve itself at this late stage.

County commissioner elections for even numbered and odd numbered districts are staggered every two years under Texas election law. In their lawsuit, Cagle, Ramsey, and three Republican voters charged that the Ellis map would disenfranchise 1.1 million voters who would not be able to vote in the upcoming election.

Ellis responded that his map was designed to correct a previous gerrymander by the then-Republican-led commissioners court, which he said effectively discriminated against minority voters.

"I'm grateful the Texas Supreme Court took a careful look at this case and reached the just decision," read a statement from Ellis. "Looking forward to proceeding with an orderly election that ensures the people of Harris County have the opportunity to elect representation that reflects their values."

Both Cagle and Ramsey's office's deferred to their attorney, Andy Taylor, for an official statement.

In a statement, Taylor said the legal battle would continue to invalidate the map for future elections.

"Because the candidate filing period commenced on November 13, 2021, which was only a mere two weeks after the unconstitutional redistricting plan was passed by the Democratic majority on the Harris County Commissioners Court, the Court refused to intervene at this time simply because the upcoming March primary election was already in progress and it would be disruptive to do so," he said. "Once the primary election is over, we expect the Court to give our case a second look."

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Shelley Luther, anti-lockdown activist and GOP candidate, said Chinese students should be banned from Texas universities
Patrick Svitek
Texas Tribune
January 7, 2022
https://www.texastribune.org/2022/01/07/shelley-luther-chinese-students-texas/

Shelley Luther, a Republican candidate for Texas House and hairdresser who became a hero of the anti-lockdown movement during the coronavirus pandemic, recently said in a since-deleted tweet that Chinese students should not be allowed to attend Texas colleges.

“Chinese students should be BANNED from attending all Texas universities,” Luther said in the Wednesday tweet. “No more Communists!”

In a follow-up tweet that is still online, Luther said the state's taxpayers "should not be subsidizing the next generation of CCP leaders," referring to the Chinese Communist Party. In a subsequent tweet, she said it is "common sense" that CCP members "should not have access to our schools."

On Friday, state Rep. Gene Wu, a Democrat from Houston who is Chinese-American, condemned Luther's comments and asked her to publicly apologize.

"Luther’s statements are ignorant, hateful, and incite violence against not only Chinese Americans, but all Asian Americans," Wu said in a statement. "To casually conflate all Chinese students in America with actual registered members of the ruling party in the People’s Republic of China is not only ignorance of an extreme nature, it is also the type of rhetoric that drives anti-Asian hate crimes."

Asked for comment Friday, Luther declined to apologize and attacked Wu, who was among the House Democrats who broke quorum and went to Washington, D.C., last year in protest of Republicans' priority elections bill.

"It doesn’t surprise me that a socialist Democrat who doesn’t even know how to show up to work thinks the position that communist Chinese citizens should not access taxpayer funded state institutions is racist," Luther said in a statement to The Texas Tribune.

Luther's comments came as anti-Asian hate crimes have been on the rise. They increased by more than 73% in 2020, according to recent FBI data, far outpacing all hate crimes, which increased 13%.

Luther is challenging state Rep. Reggie Smith, R-Sherman, in the March primary. The district favors Republicans, so whoever wins between Smith and Luther is set to hold the seat after November.

Luther became nationally known at the beginning of the pandemic in 2020 when she refused to shut down her Dallas salon in defiance of emergency orders. She was sentenced to a week in jail but was released after only a few days, via a motion granted by the Texas Supreme Court.

She became a vocal critic of Gov. Greg Abbott, a fellow Republican, and ran unsuccessfully for a state Senate seat in a special election later that year.

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Invoking Jan. 6, Dems pivot to fight for voting legislation
Associated Press
January 10, 2022
https://spectrumlocalnews.com/tx/south-texas-el-paso/ap-online/2022/01/10/invoking-jan-6-dems-pivot-to-fight-for-voting-legislation

WASHINGTON (AP) — Democrats are mounting an impassioned bid to overhaul Senate rules that stand in the way of their sweeping voting legislation, arguing dark forces unleashed by Donald Trump's falsehoods about the 2020 election demand an extraordinary response.

In fiery speeches and interviews, President Joe Biden and top congressional Democrats have seized on the one-year anniversary of the Jan. 6 insurrection as a reason to advance their long-stalled voting, ethics and elections package. Senate Republicans, who have repeatedly blocked the legislation, excoriate the measures as a "partisan power grab" and warn that any rule changes will haunt Democrats someday under a GOP majority.

Trump's false claims of a stolen election not only incited the mob that stormed the Capitol, Democrats say. His unrelenting campaign of disinformation also sparked a GOP effort to pass new state laws that have made it more difficult to vote, while in some cases rendering the administration of elections more susceptible to political influence.

Democrats' voting legislation would usher in the biggest overhaul of U.S. elections in a generation, striking down hurdles to voting enacted in the name of election security, reducing the influence of big money in politics and limiting partisan influence over the drawing of congressional districts. The package would create national election standards that would trump the state-level GOP laws. It would also restore the ability of the Justice Department to police election laws in states with a history of discrimination.

Many Democrats say the moment has come to act decisively in what they view as the civil rights fight of the era. Changing Senate rules early in 2022 offers perhaps the last best chance to counteract Republicans' state-level push before the midterm elections, when Democrats' House majority and slim hold in the 50-50 Senate could be wiped out.

"If Republicans continue to hijack the rules of the chamber to prevent us from protecting our democracy, then the Senate will debate and consider changes to the rules," Senate Majority Leader Chuck Schumer, D-N.Y., said Friday.

Yet what action they will take remains highly uncertain, depending on the often elusive support of Sen. Joe Manchin, D-W.Va. Key Democrats have been meeting with Manchin for weeks, brainstorming options while also enlisting outside allies to lobby his support.

Manchin has made no firm commitments. He has repeatedly said he will not support lowering the filibuster's 60-vote threshold for passing most legislation, a stance shared by fellow centrist Kyrsten Sinema, D-Ariz. Until the threshold is lowered, enacting election legislation could prove difficult, if not impossible.

But Democrats say they are focused on what's achievable now, amid escalating pressure from allies for action. Even modest changes to Senate rules, they say, would be a significant step forward.

Leaning into the fight, Biden is set to deliver a speech in Atlanta on Tuesday focused on voting rights. And Schumer has added to the civil rights symbolism by setting the Martin Luther King Jr. holiday, on Jan. 17, as the deadline to either pass the voting legislation or consider revising the rules. The Senate is likely to hold a series of test votes this week intended to underscore Republican opposition.

“I'm not going to say ‘yes’ or ‘no,’ because I don’t know what votes will come to the floor," Manchin said last week, noting that he has supported some changes to Senate rules in the past. One proposal Democrats are discussing would eliminate the filibuster on the so-called “motion to proceed” that is needed before a bill can be debated on the Senate floor.

Republicans say invoking the Jan. 6 insurrection is offensive. The voting bills, they say, were largely written before the attack and include a liberal wish list of priorities that will do little to combat vulnerabilities in the law exposed by Trump's attempts to overturn the election.

“It is beyond distasteful for some of our colleagues to ham-fistedly invoke the Jan. 6 anniversary to advance these aims," said Senate Minority Leader Mitch McConnell, R-Ky. “The fact that violent criminals broke the law does not entitle Senate Democrats to break the Senate.”

The renewed focus on voting rights comes as much of Biden's agenda has stalled out in Congress. Before Christmas, Manchin singlehandedly halted work on Biden's roughly $2 trillion package of social and environmental initiatives, delaying the bill indefinitely.

Civil rights activists are deeply frustrated by the turn of events, saying precious months have been wasted. They view the GOP-backed changes in voting laws as a subtler form of ballot restrictions like literacy tests and poll taxes once used to disenfranchise Black voters, a key Democratic constituency.

“Unfortunately many policymakers have not truly appreciated the gravity of where we are in this nation at this moment,” NAACP President Derrick Johnson said in an interview, singling out both Biden's White House as well as Senate Democrats. “African Americans have seen this before. We've experienced this before. We must get beyond procedural conversations and get to the substance of protecting this fragile thing called democracy.”

McConnell has ridiculed "scary stories that liberal activists keep repeating about how democracy is at death’s door.” He recently dangled the possibility of narrower bipartisan action to shore up a convoluted 19th century law called the Electoral Count Act that governs the certification of presidential elections — a law Trump sought to exploit to overthrow his 2020 defeat. A compromise on that could be attractive to Manchin, who has said any election legislation ought to be enacted on a bipartisan basis.

Last week, Republican Sen. Susan Collins of Maine held bipartisan talks with Republican Sens. Roger Wicker of Mississippi, Thom Tillis of North Carolina and Mitt Romney of Utah, as well as Manchin and fellow Democrats Jeanne Shaheen of New Hampshire and Kyrsten Sinema of Arizona. An update to the Electoral Count Act was part of the discussion, according to a person familiar with the discussion who insisted on anonymity to reveal details about the deliberations.

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TX-SOS-22-0155-B-001573

Democrats have blasted the GOP overture on the Electoral Count Act as a “cynical” political maneuver aimed at doing the bare minimum at the federal level while leaving laws in place in GOP-controlled swing states like Georgia.

“What good is it to certify the election, if I don’t get to cast my vote in the first place?” said Democratic Sen. Raphael Warnock, the first African American to represent Georgia in the Senate. He is up for reelection this year.

Republicans warn that Democrats will come to regret any changes to the filibuster, which is intended to foster compromise by making legislation intentionally difficult to pass.

“They barely have a majority now,” said Sen. John Thune, of South Dakota, the chamber's No. 2 Republican. “Even the strongest majorities eventually end up back in the minority.”

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'More soul searching:' Facebook's former elections boss speaks out about the platform
Ramishah Maruf
CNN Business
January 9, 2022
https://edition.cnn.com/2022/01/09/media/facebook-reliable-sources-katie-harbath/index.html

New York (CNN) – Katie Harbath worked for 10 years inside Facebook, where she was most recently the company's public policy director managing elections. Now, she's the founder and CEO of Anchor Change, and on "Reliable Sources" Sunday, she spoke out about her old company and its role in democracy.

Harbath said Facebook shouldn't get the sole blame for Jan. 6 — there's a massive problem across the media ecosystem in how people get their information.

"I do think there needs to be more soul searching around how (Facebook) could have done better as a company," Harbath said. "How could we have potentially prevented this, going as far back as December 2015 with President Trump."

Harbath was working at Facebook during the insurrection last year. Stelter said critics pointed out she had a long time to leave amid the revelations about company's harmful policies.

"I'm not here to say that I shouldn't be held responsible for the decisions and the actions I made inside the company," Harbath said. "But what I'm trying to do now is trying to actually rethink and try to go back and learn from those mistakes."

Harbath had hoped she could bring about changes within the company after 2016, and acknowledged the platform's increased transparency and civic integrity team. But in the past five years, she said the company got much larger, exacerbating some of the challenges.

"In terms of some of the decisions that the company was making, as it got larger, there were more leaks," Harbath said.

Harbath wants to see more long term planning at Facebook in 2024. There will be major election around the globe, including in the United States, India, Indonesia, Ukraine and Taiwan.

"That's a lot of elections to prepare for, and to build up the language capabilities, to build up the products, to build up the teams. That takes time," Harbath said.

CNN's chief media correspondent Brian Stelter said there's a sense that the rhetoric on Facebook and other social-media platforms "supercharges the worst impulses of lies and disinformation" around the world.

"We need to start thinking about more nuanced views of this," Harbath said, "and also [get] a better understanding of what's happening inside these companies."

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Democratic elections lawyer Marc Elias fights court sanctions as he gears up for midterm elections
Jerry Dunleavy
Washington Examiner
January 7, 2022
https://www.washingtonexaminer.com/policy/courts/democratic-elections-lawyer-marc-elias-fights-court-sanctions-as-he-gears-up-for-midterm-elections

Democratic lawyer and discredited dossier funder Marc Elias is trying to escape sanctions imposed by federal appeals judges last year for misleading the court.

The former lawyer for Perkins Coie, best known for funding British ex-spy Christopher Steele's discredited dossier while he worked as Hillary Clinton's top campaign lawyer in 2016, was punished by the U.S. Court of Appeals for the 5th Circuit in March last year for his behavior in a battle against a Texas law banning straight-ticket voting.

Elias has attempted to fashion himself as a guardian of democracy despite his lead role in undermining the 2016 presidential election using the baseless Trump-Russia narrative. But the 5th Circuit's sanctions pose a serious blemish for him as he fights to get Democrats elected in 2022.

Paul Clement, the lawyer representing Elias, filed a late December request asking the full appeals court to take up the matter and to reverse the sanctions against the Democratic lawyer. Clement argued that appeals courts "generally reserve sanctions for egregious misconduct" and said Elias had committed only "good-faith mistakes."

The 5th Circuit judges found Elias and others on his team filed a motion that was denied, then refiled a nearly identical motion without notifying the court the first effort had been denied. Judge Edith Clement, nominated by former President George W. Bush in 2001, and Judge Jennifer Elrod, nominated by Bush in 2007, both ordered Elias and his associates to be sanctioned last year, while Judge Catharina Haynes, another 2007 Bush nominee, did not.

“This inexplicable failure to disclose the earlier denial of their motion violated their duty of candor to the court,” the judges ruled last year, adding that the redundant motion "multiplied the proceedings unreasonably and vexatiously."

The Democratic lawyers, including Elias, were ordered to pay attorneys' fees and double costs, and the judges recommended Elias and his colleagues review the section of the Model Rules of Professional Conduct on “Candor Toward the Tribunal” and encouraged them to “complete one hour of Continuing Legal Education in the area of Ethics and Professionalism, specifically candor with the court.”

The appeals judges upheld their decision in June, ruling that the sanctions were "justified” and “appropriate” because Elias “violated local rules.” The judges also said that Elias and the other lawyers “recklessly disregarded their duty to the court by failing to demonstrate candor to the court.” The court ordered Elias and the others to pay up $8,700 in opposing attorneys’ fees in December.

The underlying case involved a 2017 Texas law that ended straight-party ticket voting effective Sept. 1, 2020, two months before the November 2020 election. A federal judge cited the pandemic to put the practice back in place in September 2020, but the appeals court overruled that and upheld the law that month. Texas Democrats have long claimed the law hurts black and Hispanic voters.

Elias, the former head of the Perkins Coie political law group who launched his own Elias Law Group last year, hired the opposition research firm Fusion GPS, which in turn hired Steele in 2016. Elias testified that he was aware of Fusion's plans to have Steele brief reporters about his anti-Trump research during the 2016 contest, met with Steele during the 2016 contest, and periodically briefed the campaign about the findings from Fusion and Steele.

DOJ Inspector General Michael Horowitz’s December 2019 report criticized the Justice Department and the FBI for at least 17 “significant errors and omissions” related to the Foreign Intelligence Surveillance Act warrants against former Trump campaign adviser Carter Page and for the bureau's reliance on Steele’s dossier.

Elias, who was also the general counsel for now-Vice President Kamala Harris's 2020 bid, gained popularity during 2020’s election court battles. Michael Sussmann, another now-former Perkins Coie lawyer with whom Elias coordinated closely with on anti-Trump research in 2016, was indicted in special counsel John Durham’s criminal investigation.

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Jury selection underway in trial of alleged U.S. consulate employee assassin, accomplice
Julian Resendiz
Border Report
January 7, 2022
https://www.brproud.com/border-report-tour/jury-selection-underway-in-trial-of-alleged-u-s-consulate-employee-assassin-accomplice/

EL PASO, Texas (Border Report) – Jury selection began Friday morning in El Paso in the trial of the alleged shooter and an associate in the 2010 murder of a U.S. consulate employee in Juarez.

The trial itself for Jose Guadalupe Diaz, a.k.a. “Zorro” (Fox), and alleged Barrio Azteca gang member Martin Perez Marrufo is set to start Monday morning in U.S. District Judge Kathlene Cardone’s court. The two men face federal charges of violent crimes in aid of racketeering, conspiracy to kidnap, kill, main or injure persons in a foreign country, firearms violations, and others.

Diaz is accused of fatally shooting consulate employee Leslie Ann Enriquez Catton, her husband Arthur Redelfs and Alberto Salcido Ceniceros – the husband of another consulate employee.

A third man, Arturo Gallegos Castrellon, described by the U.S. Justice Department as a lieutenant in the Barrio Azteca hierarchy, was sentenced in 2014 to life in prison for ordering the killings.

Gallegos “led the teams of assassins who carried out the U.S. Consulate shootings in March 2010 and ruthlessly murdered nearly 1,600 others as part of a cartel conflict over a drug trafficking route from Mexico into the United States,” Acting Assistant U.S. Attorney General David O’Neil said at the time.

Barrio Azteca gang members were “foot soldiers” for the Juarez cartel, which fractured but has been making a comeback as La Linea, a transnational criminal organization in recent years. La Linea controls drug trafficking, migrant smuggling and drug sales in much of Chihuahua. Its operatives in the neighboring state of Sonora (across the border from Arizona) are facing charges in Mexico in connection with the Nov. 3, 2019 murder of three women and six children who were American citizens.

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Mexico charges 7 in 'Fast and Furious' weapons trafficking
Associated Press
January 9, 2022
https://www.beaumontenterprise.com/news/article/Mexico-charges-7-in-Fast-and-Furious-weapons-16761995.php

MEXICO CITY (AP) — Mexican prosecutors said Sunday they have charged seven people, including former top officials, in the “Fast and Furious” weapons trafficking scandal.

The December 2010 murder of Border Patrol agent Brian Terry exposed the bungled “Fast and Furious” investigation, in which agents from the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives allowed criminals to buy guns with the intention of tracking the weapons.

But the agency lost most of the guns, including two that were found at the scene of Terry’s death in southern Arizona. The U.S. government has heavily pursued prosecution of the men involved in the killing.

Mexico says Mexican drug gangs and former officials also participated in or failed to stop the weapons trafficking.

Mexico’s Attorney General’s Office said Sunday it has lodged weapons trafficking charges against seven people in the more-than-decade-old case, including the country’s former top police official, Genaro Garcia Luna, and former durg lord Joaquin “El Chapo” Guzman.

Garcia Luna was arrested in Texas in 2019 and currently faces trial in the U.S. for allegedly protecting a drug gang. Mexico has asked for his extradition to face charges of illegal enrichment.

García Luna served as security chief in President Felipe Calderón's 2006-2012 administration and was the leader of the government's fight against organized crime.

Also charged was former Federal Police commander Luis Cardenas Palomino, who was considered the right-hand man of García Luna. Mexico already arrested Cardenas Palomino on charges of torture, and U.S. prosecutors have separately accused him of accepting millions in bribes from the Sinaloa cartel.

Mexico also charged Guzman in the weapons trafficking case, but he is already serving a life sentence in Colorado.

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Human smuggling continues to be on the rise in South Texas
Vanessa Croix
KENS-TV
January 7, 2022
https://www.kens5.com/article/news/special-reports/at-the-border/human-smuggling-continues-to-be-on-the-rise-in-south-texas/273-e19f270e-b057-434f-b6ce-128062a00852

LA SALLE COUNTY, Texas — Human smuggling along the southwest border is reaching record high numbers.

Governor Greg Abbott's Operation Lone Star has deployed a force of state troopers along the border highways from Del Rio to the Rio Grande Valley in a mission to crackdown on human smuggling.

One of those crackdowns happened New Years Eve off I-35 in La Salle County.

DPS body cam video shows the moment a man is pulled over and tells the officers there's no one riding in the utility trailer he's pulling behind the truck he's driving.

But, minutes later, troopers make a shocking discovery, 21 migrants hiding in a tight crawl-like space in the trailer.

"It's not very much room, it's like if you're crawling underneath the bed, closed in the dark where there's no ventilation for them," said DPS Sgt. Juan Maldonado.

Maldonado said troopers are seeing an uptick in human smuggling in South Texas. He said the stop in La Salle County is not out of the ordinary.

"They usually get smuggled to a large city which would be going towards you to San Antonio, Houston, Dallas, the big metro cities," said Maldonado.

He said troopers are also seeing a rise in the criminal element associated with the smuggling.

DPS said the driver carrying those 21 migrants on New Years Eve, is a Mexican Mafia Gang member. Officials did not identify the man, but said he was arrested on smuggling charges in addition to being in possession of a stolen firearm. DPS said the truck he was driving was also stolen.

“The migrants who make this journey north are not ignorant of the dangers. They know how dangerous it is,” said Theresa Cardinal Brown with the Bipartisan Policy Center, a think tank in Washington D.C.

She said their mission is to find solutions to the country’s most challenging issues, in this case, the surge in illegal immigration.

“For many of these people, they truly believe that if they stay where they are, they will be killed. Their children will be killed, their family will be killed, they will die,” said Cardinal-Brown. “They have no reason to stay where they are. That's the kind of desperation that drives them north.”

Cardinal-Brown said the real problems are with the current immigration policies.

She said most migrants aren’t able to get work visas and are rarely granted asylum.

“We have made it so difficult for people to try to come legally that this is the last chance remaining to them,” said Cardinal-Brown. “They're going to keep coming and they will keep trying, and they will keep trying to find ways to come in until they succeed, because that's the desperation they have.”

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Mexico cracks down on migrants from Venezuela, will require travel visas
Fernie Ortiz
Border Report
January 7, 2022
https://www.borderreport.com/hot-topics/immigration/mexico-cracks-down-on-migrants-from-venezuela-will-require-travel-visas/

MEXICO CITY (AP) — Mexico said Thursday it will begin requiring travel visas for Venezuelans starting Jan. 21, after a surge in the number of migrants trying to reach the U.S. border.

In publishing the new rules, the Interior Department said the decision was based on a tenfold increase in the number of Venezuelan citizens arriving in Mexico in recent years seeking to travel “in an irregular manner to a third country,” a clear reference to the United States.

Last year, U.S. President Joe Biden’s administration offered temporary legal residency to several hundred thousand Venezuelans who have fled their country’s economic and political crisis.

On Dec. 11, Mexico suspended a 17-year-old program that had allowed Brazilian citizens to enter without a visa. The move came after Mexico detected an uptick in Brazilian migrants traveling to Mexico with the intention of reaching the United States.

Migrants, mainly from Central America, Haiti and Cuba, often cross Mexico in hopes of reaching the U.S. border. Mexico has largely been aiding the U.S. government in trying to reduce the flow.

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Moderna gives Mexico 2.7 million shots as deaths top 300,000
Associated Press
January 8, 2022
https://www.fox44news.com/news/moderna-gives-mexico-2-7-million-shots-as-deaths-top-300000/

MEXICO CITY (AP) — The U.S. company Moderna donated 2.7 million doses of coronavirus vaccine to Mexico Saturday as the country's official death toll topped 300,000.

Mexico passed 300,000 test-confirmed coronavirus deaths this week, but so little testing is done in the country that a government review of death certificates puts to real toll at almost 460,000.

Mexican officials welcomed the arrival of the shipment at the airport in Toluca, just west of Mexico City, and said the vaccines will be used to inoculate teachers.

Teachers in Mexico were second after only health care workers to be vaccinated in the spring.

In April and May, over 2.7 million teachers got initial shots. But most of them got the single-dose Chinese Cansino vaccine, whose effectiveness appears to decline over time.

Mexico has now obtained over 200 million doses of vaccines, and has been trying to reopen in-person learning at all levels.

Education Secretary Delfina Gómez said, "We are grateful to recieve this donation, which will undoubtedly help more boys, girls and youths to come to classrooms with greater safety and confidence."

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I'm supporting a billion dollar electrical power line to the RGV
Greg Abbott
Rio Grande Guardian
January 9, 2022
https://riograndeguardian.com/abbott-im-supporting-a-billion-dollar-electrical-power-line-to-the-rgv/

Howdy, RGV. The only thing better than being in the Rio Grande Valley is being in the Rio Grande Valley with my wonderful wife, Cecilla. Thank you for being a fabulous First Lady for our great state. She has been such a loving mother and wife. She has been a role model by being a terrific teacher and principal. But I am proud as you are about the fact that my wife made Texas history when she became the first Hispanic First Lady in the history of our great state. Thank you, Cecilia Abbott.

Well it is great to join you at this Hispanic Leadership Summit. I am proud of all the Hispanic leaders who are a part of his summit today, some of whom are from here in the RGV. Others of whom are from across the entire state of Texas. But all of whom are doing a fabulous job of spreading the

message that in the heart of Hispanics, they really are Republicans. And together they will keep Texas red.

Now I am back in the Rio Grande Valley so much because I so much care about this region. In fact, I have been to the Rio Grande Valley more than any other governor in the history of Texas. But I do more than just visit the Rio Grande Valley. I deliver for the people of the Rio Grande Valley.

Some examples. Before I was governor the Rio Grande Valley had no level one trauma center. What that meant is people who suffered traumatic injuries, they might have to go all the way to San Antonio or Corpus Christi or some other place in order to be treated. That was unacceptable. And so I promised that South Texas and the Rio Grande Valley would get a level one trauma center and now the Rio Grande Valley has one right here in Hidalgo County.

I promised more higher education opportunities and now the Rio Grande Valley has the Texas A&M Higher Education Center right here in McAllen, Texas.

I promised more roads and we have provided more than $2 billion in road funding for the RGV since I have been your governor.

To ensure that you all are going to have the power that you need to meet the demands of a growing population as well as a growing economy, I am supporting a billion dollar electrical power line to the RGV.

I also promised more jobs. And get this. Just last month more people in Hidalgo County had a job than ever before in Texas history.

The fact of the matter is that the Rio Grande Valley is truly brimming with promise. It is the promise of opportunity, of prosperity, and hope. The opportunity for better jobs. The opportunity for a better education. The opportunity for a better quality of life.

It is the prosperity that isn't reserved for just a few. It goes to every single person across the entire state of Texas in every single region. And hope. The hope that every generation will have a brighter future.

It is promise that is not found just in the Rio Grande Valley but in every community across our state. Together, all of us, we have put Texas on a remarkable path toward a brighter future. A Texas where working families can do far more than just get by. They can flourish under the opportunities of the 9th largest economy in the entire world. A Texas where students don't simply graduate with a diploma but they graduate with the preparation and the inspiration to take on college or take on a career. A Texas where every parent can rest easy knowing that their families are safe in their communities. And a Texas where we protect our constitutional rights and your individual liberties.

That is the Texas that we have worked so hard to create. But, we must fight to keep it that way. Because some want a completely different Texas. Where we have cut taxes they would raise them. Where we have created jobs, they would destroy them. Where we have supported our law enforcement officers, they would defund them. Where we have protected your constitutional rights, they threaten to take them away. And were we promote Texas exceptionalism they engage in fear mongering.

AMERICAN OVERSIGHT

We cannot let big government liberals redesign our state with a progressive agenda that is destroying some parts of America. We need a proven winner who will fight to secure the future of Texas.

That is why, today, I am in the Rio Grande Valley. To officially announce my re-election to run as your governor of the great state of Texas.

Editor's Note: The above commentary focuses on the Rio Grande Valley portion of Gov. Greg Abbott's remarks at his re-election campaign kickoff held Saturday in McAllen, Texas. To watch the whole show, click here.

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Analysis: A Texas election in the shade of government's third branch
Ross Ramsey
Texas Tribune
January 10, 2022
https://www.texastribune.org/2022/01/10/texas-courts-abortion-voting-redistricting/

Laws are laws until judges or legislators toss them out. For political purposes, a law that doesn't survive court challenges can still count as a win — as long as it remains in place through an election.

Some of the biggest political issues in Texas are pending in court.

The U.S. Supreme Court heard arguments on Friday about the constitutionality of federal vaccine mandates, a tussle that has the federal government on one side and Texas and other states on the other.

The 5th U.S. Circuit Court of Appeals in New Orleans is now the forum for lawsuits over the state's new ban on abortions after detection of a fetal pulse, usually about six weeks into a pregnancy. That's one of the nation's most restrictive laws and its fate will ultimately depend on a ruling from the Supreme Court, which is reconsidering its 49-year-old ruling in Roe v. Wade.

The election season in Texas is well underway, even with two major legislative issues — new political maps and newly restrictive voting and election laws — working their way through the courts. The courts have delayed elections in the past when redistricting maps were not to their liking, but they don't have a lot of time left: Early voting in the Texas primaries starts on Feb. 14. And the state's new law on voting and election practices, also tangled up in court, will remain in place until and unless the courts say otherwise.

In each of those cases, the supporters of the new laws, or of the federal orders on vaccines, will get their way unless the courts decide otherwise. Opponents of those laws, looking for federal lenience, will all have to wait.

It all might balance out in the long run, but vaccines, abortions and voting in an election that's weeks away are short-run concerns for many. The winning side might change when those cases are complete, but in the meantime, the assumption is that the governments that changed the rules knew what they were doing.

When it comes to elections, that's a relatively new development. Texas has been cited over and over by the courts for "intentional discrimination" in redistricting. A lawsuit filed in October alleges that the new maps provide fresh examples of that.

But Texas is no longer required, as it was until 2013, to get changes in its maps and its voting laws approved by federal courts or the U.S. Department of Justice before putting them into effect.

States make laws all the time, but voting laws are a peculiar case. The federal Voting Rights Act was written to stop states with histories of discriminating — states like this one — from revising and refining their bad behavior to stay ahead of equal rights legislation. They were required to get permission before their changes could take effect.

But after that 2013 ruling from the Supreme Court, instead of waiting for "preclearance," states can proceed with their new laws until the courts stop them. A voting or election law that turns out to be illegal after the lawsuits are judged remains in effect until that judging is done.

In the meantime, the elections go on under the new law, which is presumed to be constitutional — and nondiscriminatory.

Abortion laws and vaccine or mask mandates can be time-sensitive, too. For now, the new restrictions on abortion in Texas remain in effect while the court challenges to it proceed. Anyone seeking an abortion — or helping someone seek an abortion — is subject to the restrictions in the new law. Even if the courts eventually overturn the Texas law, someone seeking an abortion right now has to follow it.

The same goes for the federal vaccine mandates. Unless the courts put a temporary hold on those orders, they'll remain in effect for now.

It's clear what laws are in effect on voting, redistricting, abortion and vaccines here in the first month of 2022 — what Texans are allowed to do in the current election, whether they're able to obtain abortions and whether they're required to follow government vaccine mandates.

But it might be temporary.

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The strange silence around Texas election audit
Editorial Board
Dallas Morning News
January 9, 2022
https://www.dallasnews.com/opinion/editorials/2022/01/09/the-strange-silence-around-texas-election-audit/

When Texas launched a "full forensic audit" of the 2020 general election, Gov. Greg Abbott and the office of the secretary of state wanted everybody to know about it.

The secretary of state's office announced the audit Sept. 23, on a Thursday, hours after former President Donald Trump demanded an audit in Texas, a state he easily won. Abbott soon went on Fox News to defend the decision to pursue an audit, telling host Chris Wallace: "We have a responsibility to ensure the integrity and confidence in the elections in the state of Texas."

There was then, as there is now, no credible question about the integrity of the state's elections, but onward we went. Now, the first phase of the audit is done and very few issues were found in the four counties targeted for the review: Dallas, Collin, Tarrant and Harris. The largest discrepancy was located in Republican-leaning Collin County, where a difference of 17 votes between manual and electronic counts was found. And for that, Collin County officials had a clear explanation.

You'd think Abbott and Secretary of State John B. Scott would want to shout this good news story from the rooftops. After all, the multimillion dollar audit has shown so far that our state's voters can go to the polls with confidence that we are holding free and fair elections in Texas.

What we got instead was a news drop about the audit results on New Year's Eve, when few Texans were paying attention. In journalism, we know from experience that officials save bad news for the night before a holiday.

Wasn't the goal to make Texans confident in their election results?

Maybe the lack of noise over the audit results has more to do with the fact that they will make it more difficult to justify additional "election integrity" stunts like this one.

Voter fraud does happen and should be investigated and prosecuted in accordance with the law, but the problem is limited and does not justify the level of interest and investment that it has received from GOP officials. In 2021, Republican state lawmakers redirected $4 million from the state prison budget to the office of the secretary of state to help pay for election audits.

This is what that office found in a statewide review that was part of the first phase of the 2020 election audit: 509 instances where individuals may have cast ballots in Texas and another state and 67 possible cases of votes cast on behalf of dead voters. That was among 11.3 million votes cast.

The secretary of state's office also identified more than 11,000 potential non-citizen voters, but recent reporting raises serious questions about the validity of the data used to identify many of those people. And this is not the first time that a sweep of voter rolls has erroneously turned up large numbers of supposedly "non-citizen" voters.

Meanwhile, the Texas attorney general's election integrity unit saw its budget and staff increase in 2021. Yet it closed only three cases last year, compared with 17 the year before, according to the Houston Chronicle.

The state audit will continue this year, with officials saying it will look at whether election procedures in 2020 were properly followed.

Texas leaders insist on pouring money and resources into finding voter fraud, and the results are paltry. What will it take for them to abandon this inquisition and tell Texas voters that we can have confidence in our elections and in our democracy?

AMERICAN OVERSIGHT

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From: Sam Taylor
Sent: Tuesday, January 18, 2022 8:59 AM
Subject: SOS Morning News Clips 1/18/22

Sensitivity: Personal

Texas Secretary of State
Morning News Clips
January 18, 2022

Texas Secretary of State, Travis County at impasse on dealing with mail-in ballot application rejections, *KXAN-TV*, January 18, 2022

Texas Secretary of State and Travis County Clerk's Office exchange words on mail-in ballot mix-up, *KVUE-TV*, January 14, 2022

Texas Secretary of State 'surprised' by mail-in ballot application rejections, *KTBC-TV*, January 14, 2022

Texas Secretary of State calls on Travis Co. to review rejected mail-in ballot application, *KEYE-TV*, January 14, 2022

New Texas voting law snags US citizens, mail ballot requests, *Associated Press*, January 14, 2022

Texas wants review of Travis County absentee ballot requests rejected under state's new voting law, *Austin American-Statesman*, January 15, 2022

Texas Secretary of State Calls for More Transparency in Elections, *The Dallas Express*, January 15, 2022

Texas election officials blame new voting law for rise in rejected mail-in ballot applications, *KERA News*, January 14, 2022

Texas launches digital ballot-by-mail tracking system, *KXAN-TV*, January 16, 2022

One county in Texas turns down 7 times as many vote-by-mail applications after new suppression laws: report, *Raw Story*, January 17, 2022

AMERICAN OVERSIGHT

Texas says supply chain issues have limited the number of voter registration forms it can give out, *KUT-FM*, January 18, 2022

'It's a red flag': Counties see increase in rejected mail-in ballot applications under new Texas voting rules, *KHOU-TV*, January 14, 2022

New voting law leading to high rejection of mail-in ballot applications in Texas, *CNN*, January 14, 2022

Montgomery County approves early-voting sites for March primaries, *Community Impact*, January 14, 2022

New voter registration certificates are in the mail for El Paso County registered voters, *KVIA-TV*, January 14, 2022

New Texas elections law, decried as vote suppression, leads to record number of rejected mail ballot applications, *Houston Chronicle*, January 15, 2022

Pence says federal election bills 'offend the Founders' intention that states conduct elections,' *CNN*, January 14, 2022

In Quest for Energy Independence, Mexico Is Buying a Texas Oil Refinery, *New York Times*, January 18, 2022

Texas border cities registered 'huge' spike in retail sales after bridges reopened, *Border Report*, January 17, 2022

'No way we could afford to foot the bill to do what is needed': South Texas county gets state dollars to recoup border crisis expenses, *KENS-TV*, January 14, 2022

Hidalgo County Set To Dispute 2020 Census Count, *KURV-AM*, January 17, 2022

Shell to hand over Deer Park refinery to Pemex next week – sources, *Reuters*, January 13, 2022

Over 100 Mexican immigration agents linked to bribery and corruption, *Associated Press*, January 14, 2022

U.S. Energy Secretary to Visit Mexico to Discuss Power Market Concerns, *Latin Post*, January 17, 2022

Millions in funding slated for Texas bridges, repairs, *KSAT-TV*, January 14, 2022

Mexico labor minister defends Pemex union boss vote despite influence concerns, *Reuters*, January 14, 2022

Column: Mexico's Electricity Reform Would Lead to More, Not Less, Reliance on NatGas Imports, *Natural Gas Intelligence*, January 14, 2022

Texas Dems work around election integrity law as they mail out "hundreds of thousands" of mail-in ballots, *Hot Air,* January 15, 2022

Opinion: Pence: Jan. 6 was a tragedy. Busting the filibuster would be, too, *Washington Post*, January 14, 2022

Anchía: When you trash the border, you are trashing Texas, *Rio Grande Guardian*, January 14, 2022

As Abbott Celebrates MLK Day, Voter Suppression Agenda Kicks Into Full Gear, *Texas Signal*, January 17, 2022

Garcia: New Texas election law already has made a mess of mail voting, *San Antonio Express-News*, January 15, 2022

Who's afraid of the big, bad ballot drop box?, *Austin American-Statesman*, January 15, 2022

Texas Secretary of State, Travis County at impasse on dealing with mail-in ballot application rejections
Billy Gates
KXAN-TV
January 18, 2022
https://www.kxan.com/news/local/travis-county/texas-secretary-of-state-travis-county-at-impasse-on-dealing-with-mail-in-ballot-application-rejections/

AUSTIN (KXAN) — With mail-in ballot applications rejected at 50% in Travis County, the Texas Secretary of State wants county elections officials to “immediately review and re-examine” them.

John Scott said Jan. 14 that he was “surprised to learn” Travis County elections officials had rejected about half of all mail-in ballot applications. County officials made the announcement Jan. 13, saying the state hasn’t provided enough help so they can tell people how to fix their applications.

“Although we expect more comprehensive guidance from the Secretary of State’s Office in the future, at this time, our office does not have enough information regarding the new online cure process to instruct voters how to cure their application with the SOS,” a county press release said. “Additionally, we have not received instructions from the state outlining what our office can do to assist voters in submitting a completed application.”

County officials said there hasn’t been a final rejection of any applications, only that they need “additional guidance” from the Secretary of State’s office. The county plans to have a press conference at 9:30 a.m. on Tuesday to discuss what outgoing county clerk Dana DeBeauvoir said is a “complicated issue.”

The newly-passed law, dubbed by Texas Republicans as a “voter integrity” law, requires mail-in ballot applicants to provide a valid driver’s license number or the last four digits of their social security

number to match their voter registration record. If those numbers don't match, the application is, by law, automatically rejected.

Scott said no one at Travis County's office asked for help and wants them to reach out so the applications can be approved before the March 1 primary election.

"Travis County made the decision to reject these mail ballot applications before contacting our office," he said. "We call on Travis County to immediately review and re-examine the mail ballot applications in question to determine whether they were processed in accordance with state law, with the goal of reinstating and minimizing any disruption to eligible voters who have properly submitted their application for ballot by mail."

The Texas Tribune reports other counties are having similar issues with mail-in ballot applications rejections. Harris County has rejected about 16% of its total applications while Bexar County has rejected more than 200 applications because the entire identification section wasn't filled out. Another 150 applications were rejected because driver's license numbers didn't match.

The Travis County Clerk's office is in the middle of a big change. With longtime clerk DeBeauvoir retiring Jan. 28, Rebecca Guerrero is slated to take over as an interim clerk for 2022. Guerero has worked in the clerk's office for the past 22 years, with the last six years as the Director of Recording.

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Texas Secretary of State and Travis County Clerk's Office exchange words on mail-in ballot mix-up
Tanvi Varma
KVUE-TV
January 14, 2022
https://www.kvue.com/article/news/local/texas-secretary-of-state-travis-county-twitter-mail-in-ballots/269-0b7a8234-dbf6-44cb-8b64-fbf4ea4e167d

AUSTIN, Texas — The Travis County Clerk's Office on Thursday said it's had to reject almost half of its recent mail-in ballot applications as a result of Senate Bill 1, a voting bill signed into law last September.

The office has also said they haven't received proper instruction on how to help voters to fix their applications. The clerk's office said it would be hosting a press conference next week.

In response, Texas Secretary of State John Scott issued the following statement Friday:

"We were surprised to learn for the first time of the apparent wholesale rejection of mail ballot applications by Travis County. Our office's role to each county, including Travis County, is to be available to provide advice and assistance on implementation of Texas election law upon request. Nevertheless, Travis County made the decision to reject these mail ballot applications before contacting our office. We call on Travis County to immediately review and re-examine the mail ballot applications in question to determine whether they were processed in accordance with state law, with the goal of reinstating and minimizing any disruption to eligible voters who have properly submitted

their application for ballot by mail. We anxiously await the results of their re-processing of these mail ballot applications."

On Thursday, the two entities took to Twitter to address their concerns.

“Always, you can pick up the phone and call our office instead of calling a press conference. Much more time efficient,” said the Texas Secretary of State on Twitter.

This comment was in response to Travis County commenting on a Twitter post about voting in the March primary election. Travis County wrote that they needed more assistance regarding voter portals.

Senate Bill 1 requires applicants to submit their driver’s license number or the last four digits of social security, and for that information to then match the applicant’s voter registration record.

Travis County Clerk Dana DeBeauvoir is planning to hold a press conference on Jan. 18 to discuss the issue.

Senate Bill 1 not only adds new requirements to mail-in voting, but it bans drive-thru voting, 24-hour voting and adds a criminal penalty to election officials who send mail-in ballot applications to people who haven’t requested them.

According to the Texas Secretary of State’s office, to qualify for vote by mail, you must be 65 years or older, sick or disabled, out of the county, expected to give birth within three weeks before or after election day, or in jail.

According to a press release Friday, a new Ballot by Mail tracking tool created by House Bill 1382 is now available online through the Texas Secretary of State's website.

"I'm excited that the statewide Ballot by Mail tracking tool is now available online through the Secretary of State's website," Rep. John Bucy III (D-Austin) said. "We passed H.B. 1382 to increase accessibility, efficiency, and transparency for Texas voters. This is the type of common sense modernization needed in Texas elections."

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Texas Secretary of State 'surprised' by mail-in ballot application rejections
KTBC-TV
January 14, 2022
https://www.fox7austin.com/news/texas-secretary-of-state-surprised-by-mail-in-ballot-application-rejections

AUSTIN, Texas - Texas Secretary of State John Scott has issued a statement saying he was ‘surprised’ by the Travis County Clerk's Office's announcement that it had rejected an unusually large percentage of applications for a ballot by mail for the March 1 Primary Election.

Fifty percent of applications for mail-in ballots in Travis County have been rejected as of Jan. 13, says the county clerk's office. Many other counties are experiencing the same high rejection rate, says the office. Williamson County reported that its rejection rate is 40% because of similar issues.

In a press release, John Scott accused Travis County of making the decision to reject these mail ballot applications before contacting his office.

"We call on Travis County to immediately review and re-examine the mail ballot applications in question to determine whether they were processed in accordance with state law, with the goal of reinstating and minimizing any disruption to eligible voters who have properly submitted their application for ballot by mail," the press release said. "We anxiously await the results of their re-processing of these mail ballot applications."

The press release goes on to urge all county election officials to contact the Texas Secretary of State's office to "seek advice and assistance on the correct method of processing mail ballot applications."

Eligible voters who want to track their mail-in ballot applications to their respective county can use the recently launched Ballot by Mail Tracker, available on the Texas Secretary of State's 'My Voter Portal.'

Through the Ballot by Mail Tracker, voters are able to see whether their application for a ballot by mail was accepted or rejected, and can correct any mismatched identification information by following the prompts in the tracker, according to the press release.

- Under Texas law, you are only eligible to vote by mail if you are:
- 65 years or older
- Sick or disabled
- Out of the county on election day and during the period for early voting by personal appearance
- Expected to give birth within three weeks before or after Election Day
- Confined in jail, but otherwise eligible

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Texas Secretary of State calls on Travis Co. to review rejected mail-in ballot application
Adela Uchida
KEYE-TV
January 14, 2022
https://cbsaustin.com/news/local/texas-secretary-of-state-calls-on-travis-co-to-review-rejected-mail-in-ballot-application-election-vote-county-primary-clerk

The Texas Secretary of State is telling the Travis County clerk’s office to go back, and review mail-in ballot applications the clerk’s office rejected. The Travis county clerk has rejected half of those applications ahead of the March primary election.

The problem with the new mail-in ballot application is on the right-hand side of the very first section – where it asks for your driver's license or the last four digits of your social security number. Many applicants appear to not have included it.

It's part of a new voting law that passed the legislature in 2021. House Speaker Dade Phelan is a supporter. "I don't think it's asking too much to have an identifier on there, I know what my social security number is, I know what my driver's license number is."

But voting rights advocates say the new law was a solution without a problem. "It's the problem of legislating conspiracy theories and not in reality, and when they legislate like this on a whim, real voters get hurt," said MOVE Texas communications director Charlie Bonner.

He says some applicants also sent in an older version of the form, that did not ask for ID numbers. "There are a lot of issues and there's really been no guidance from the Secretary of State's office to these local elections officials or to voters."

The Secretary of State did issue a statement today saying, "Travis County made the decision to reject these mail ballot applications before contacting our office. We call on Travis county to immediately review and re-examine the mail ballot applications in question to determine whether they were processed in accordance with state law, with the goal of reinstating and minimizing any disruption to eligible voters who have properly submitted their application for ballot by mail."

"The Secretary of State's Office and a lot of our elected officials like to pin a problem on Travis county, and ignore the fact that ballots are being rejected in Harris county and in Bexar county and in Dallas. This problem is happening all over the state," Bonner said.

The Travis County Clerk, meantime, says they are waiting for guidance from the secretary of state and that the rejection of the ballot applications isn't final.

Supporters of the new law like Speaker Phelan say it's on clerk's offices statewide to get the word out. "If anything, it's a public education PSA for the counties to remind their voters exactly what the new law is."

Travis County says they'll have more to say next week, in a press conference.

Meantime, you can track your mail-in ballot application through the tracker run by the secretary of state by clicking here.

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New Texas voting law snags US citizens, mail ballot requests
Acacia Coronado, Paul Weber and Nicholas Riccardi
Associated Press
January 14, 2022
https://www.washingtonpost.com/politics/new-texas-voting-law-snags-us-citizens-mail-ballot-requests/2022/01/14/239a1ccc-7596-11ec-a26d-1c21c16b1c93_story.html

AUSTIN, Texas — A sweeping new Texas voting law that Republicans muscled through the Legislature last year over dramatic protests is drawing fire again, even before some of the most contentious restrictions and changes kick in ahead of the state's first-in-the nation primary.

Thousands of Texans — including some U.S. citizens — have received letters saying they have been flagged as potential noncitizens who could be kicked off voting rolls. And this week, local elections officials said hundreds of mail-in ballot applications are being rejected for not including required new information.

"It's just a bad situation on a number of levels," said James Slattery, an attorney with the Texas Civil Rights Project, one of several voting rights groups that has sued the state over the new law.

The Texas law was approved last year by Republicans, who joined their party colleagues in at least 18 states, including Florida, Georgia and Arizona, in enacting new voting restrictions since the 2020 election, according to the Brennan Center for Justice. The national GOP campaign to tighten voting laws has been partly driven by former President Donald Trump's false claims that he won the election, not President Joe Biden.

Democrats have strenuously objected — including by walking out and to gridlock the Legislature, warning it could disenfranchise untold numbers of voters, especially Black, Latino and Asian people. Many of its provisions, such as expanded powers for partisan poll watchers, don't take effect until the election. But Democrats and civil rights groups say what has happened so far is alarming.

First, Texas sent letters to more than 11,000 voters warning them their registrations will be canceled unless they prove to their local elections office they are citizens. More than 2,000 registrations ended after the voters did not come in, according to the Texas Secretary of State's office. But some who received the warning letters were citizens.

Monty Tew, a 52-year-old who was born in Texas, said he couldn't understand why he got the letter asking him to prove his citizenship. He said he paid $30 to request a copy of his birth certificate, which he then sent the county a picture of as proof of citizenship and was soon notified the issue was resolved.

"I feel fortunate for that not to have been that big of a deal, it wasn't that burdensome," said Tew, of Round Rock, a city outside Austin. "But I can imagine how that can be a much bigger flogging for someone else perhaps, if they didn't have their hands on technology or if paying someone $30 to get something that was a waste of your time, money and effort could be a hassle."

Then this week, election administrators in some of Texas' largest counties, which are run by Democrats, began raising early alarms about hundreds of mail-in ballot applications they've had to reject for not complying with strict new provisions.

Tucked into the 76-page law is a new requirement that voter include either their driver's license number or the last four digits of their Social Security number on mail-in ballot applications, or the number of a state-issued identification.

Counties then match those numbers to their records before mailing an actual ballot. Texas already had some of the nation's most restrictive mail-in ballot rules, and was among only a handful of states that did not expand mail balloting in 2020 during the pandemic.

As of Friday, Harris County officials said they had rejected more than 200 of 1,200 applications from voters in the Houston area. In Austin, county election officials put the rate of rejections at roughly 50%.

"It's definitely a red flag," said Isabel Longoria, the Harris County elections administrator. "At this point, to be so low in the number of applications and have a 20 percent rejection rate for the primaries? It's really got me worried."

The Secretary of State's office said in a statement Friday that counties should check with it on how to properly reject mail ballots. It had previously said the letters warning voters they may lose their right to vote were sent as part of the implementation of the new voting law. That measure includes provisions setting out a procedure to comply with a settlement of a 2019 lawsuit settlement over the last time Texas had tried to weed out noncitizen voters and ended up threatening to revoke the registration of large numbers of U.S. citizens as well.

"Voters who do not provide proof of citizenship to their county voter registrar within 30 days of receiving the notice of examination will have their registration cancelled, with the opportunity to be reinstated if the voter later provides proof of citizenship, including at the polling place," said Sam Taylor, a spokesman for the office.

Of the 2,327 voters whose registration have been canceled through the procedure, 278 have been confirmed as noncitizens, Taylor said.

But civil rights groups say the state is not taking the correct steps to ensure U.S. citizens don't get caught in the process. The state is supposed to only flag people who identified as noncitizens on their driver's licenses after registering to vote. But it's also catching some like Harish Vyalla, 35, of Austin, who said he has voted in the county at least twice since becoming a US citizen in 2013.

"I had no concerns because I know I am a citizen with proper documentation, but I was surprised because nobody had asked me in the past," said Vyalla, adding it took about a month to preserve his right to vote. "The government should already have all these proofs and documents in hand."

Nina Perales, an attorney with the Mexican-American Legal Defense and Educational Fund, helped write the settlement of the 2019 case. She said state state officials are clearly not following it and are setting themselves up for another lawsuit.

Perales said Texas voters should brace for a potential rocky voting experience as the law's provisions fully kick in during the March 1 primary.

"Texans would be well-served to know their rights when they go to the polls, because I think there'll be confusion and doubt for a lot of voters," Perales said.

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Texas wants review of Travis County absentee ballot requests rejected under state's new voting law
Madlin Mekelburg and Luz Moreno-Lozano
Austin American-Statesman
January 15, 2022
https://www.statesman.com/story/news/politics/state/2022/01/15/texas-wants-review-tossed-travis-county-absentee-ballot-requests/6525950001/

Texas Secretary of State John Scott called Friday on elections officials in Travis County to “review and re-examine” hundreds of applications for mail-in ballots that were rejected for violating the state’s new election law that creates stricter rules for absentee voting.

The law created new identification requirements for Texans looking to cast their ballot through the mail, and elections officials in Travis, Williamson, Hays and Bastrop counties said they have collectively rejected hundreds of applications that fail to meet the new standards.

People seeking to vote by mail must now include certain identifying information on their application for a ballot: their driver’s license number, a state ID number or, in some cases, the last four digits of their Social Security number. County officials then match this number against the individual’s voter registration number. If the number provided in the application doesn’t match the number on file, the application must be rejected.

“This is truly voter suppression,” Travis County Clerk Dana DeBeauvoir said. “It’s a very complicated process — and here’s the thing: Voters are left with the problem of trying to figure out what (ID) number they put on their voter registration that we have on file.”

In Travis County, about 350 applications — half of those received by the county clerk’s office so far — have been rejected for failing to meet the new requirements.

Scott said his agency was "surprised to learn for the first time of the apparent wholesale rejection of mail ballot applications by Travis County" and encouraged officials in Austin to contact his office for assistance implementing the new election law.

"We call on Travis County to immediately review and re-examine the mail ballot applications in question to determine whether they were processed in accordance with state law, with the goal of reinstating and minimizing any disruption to eligible voters who have properly submitted their application for ballot by mail," he said in a statement.

But Travis County was one of several counties across the state being forced to reject a higher-than-usual share of applications for mail-in ballots for failing to include any ID number or including a number that does not match the information officials have on file.

The new matching requirement has led to confusion and frustration for voters and election administrators. Voters are not required to provide both a driver’s license and Social Security number when they register to vote, so the state does not have both ID numbers on file for every voter in the state. If an individual registers to vote using one form of ID and then applies for a mail-in ballot using the other number, their application would be rejected.

In Harris County, elections officials said they have received 1,276 applications for mail-in ballots as of Thursday, and 208 have been rejected for failing to comply with the new law.

Similarly in San Antonio, Bexar County elections officials told the Texas Tribune that they have rejected 200 applications that did not include any information in the ID section and 125 applications where voters used a driver's license number, but that wasn't the number in their voter record.

As of Friday, Williamson County had received 400 applications for mail-in ballots and reported about 40% had to be rejected. Of those, 64 didn't meet the new voter ID requirements and 96 didn't include a party preference, another requirement for applications for primary election ballots.

Williamson County Elections Administrator Chris Davis said his office expects that number to increase over the next several weeks as political parties and candidates begin to send out applications for absentee ballots.

Hays County election officials also reported seeing several of their mail-in ballot applications rejected for not having the proper identification numbers on file.

Jennifer Doinoff, Hays County elections administrator and voter registrar, said her office is encouraging people to check their ID registration on votetexas.gov or put both identifiers on their application to increase their chances of getting approved.

"Any time you have a change in the process it's going to be an issue," Doinoff said. "And it's already something that is confusing, but we are just going with it. We are doing everything we can to help voters."

But it's still early. Counties began accepting applications for absentee ballots on Jan. 1, and Texans have until Feb. 18 to request a paper ballot. Elections officials in the Austin area said they expected to see the number of rejected ballot requests remain high.

In Texas, only certain voters can receive a ballot to vote by mail: those 65 or older, those who are disabled, those who will be out of the county on the day of an election or those in jail but otherwise eligible to vote.

The Republican and Democratic primaries on March 1 will be the first statewide election since the state's sweeping voting law was adopted. Texas Republicans who championed the measure and said it would reduce voter fraud in the state, despite no evidence that widespread voter fraud is occurring.

Civil rights groups and voting advocacy organizations said the law will create barriers to voting for all Texans and could disproportionately affect voters of color.

During the last legislative session, Texas House Democrats left the state for Washington, D.C., to deny Republicans a quorum and block the bill, but it was ultimately passed upon their return.

The law makes broad changes, including banning drive-thru and overnight voting, and it expands power afforded to partisan poll watchers. It also creates a slew of new crimes tied to the election process, including prohibiting public officials from soliciting or distributing an application to vote by mail to individuals who didn't request the document.

“It’s doubly confusing now,” DeBeauvoir said. “If I try to tell a voter that the best way to get around this is just to put both their Texas driver’s license number and last four digits of their Social (Security number) on an application, then I’ve committed a felony. They have found every way to hamstring election administrators.”

Caldwell County Elections Administrator Kimber Daniel said certain voters are feeling the effect of that change more than others.

“What we’re seeing right now is — most of our voters who do ballots by mail are elderly — that not being able to send a reminder notice to them has been difficult,” she said. “They’re used to getting something, a reminder that if you’re going to vote by mail this year you need to call and request an application.”

The process for correcting mistakes on ballots and applications also looks different under the new law.

The Texas secretary of state is now tasked with creating a ballot by mail tracker where residents can track the status of their application. The Ballot by Mail Tracker, can show whether an application was accepted or rejected, and can a person can correct any mismatched identification information by following the prompts in the tracker.

But local elections officials have said the portal requires more information fields than ever before, and the interface can be hard to navigate, especially for the largest population of absentee voters: those older than 65.

DeBeauvoir’s office got into a heated exchange with the secretary of state’s office on Twitter over the issue Thursday, after her office issued a statement saying it was awaiting “more comprehensive guidance” from the state regarding the new system. She scheduled a news conference for Tuesday to discuss the issue.

After the secretary of state’s office shared a link to the voter portal on Twitter, it tagged the Travis County clerk's account, which replied: “Still waiting on information from your office on how to upload the information into the portal. Can someone assist?”

“Always, you can pick up the phone and call our office instead of calling a press conference. Much more time efficient," the state agency's account said in reply.

DeBeauvoir said Friday she had not spoken with anyone at the secretary of state’s office.

Davis in Williamson County said his office was preparing to send an email to the secretary of state’s office about the issues that voters have been facing with the portal and curing process, and hope it can provide some guidance on how to help residents.

“Voters are being asked to include more info on their applications than ever before,” Davis said. “Some are or may get the ID information wrong, and we are seeing rejection rates that are problematic, and at the same time there is a tracker that is hard to access and use. And that is making it hard for people to vote.”

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Texas Secretary of State Calls for More Transparency in Elections
Jose Nino
The Dallas Express
January 15, 2022
https://dallasexpress.com/texas-secretary-of-state-calls-for-more-transparency-in-elections/

During a speech before the Texas Association of Elections Administrators (TAEA) on January 4, 2022, Texas Secretary of State John Scott called for more transparency to address the "crisis of confidence" that voters have during election time especially with accusations of voter fraud.

Election integrity has been a major topic of discussion in many states nationwide.

Per TAEA President Remi Garza, Scott's appearance at the event was the first time a secretary of state was in attendance.

Erin Anderson of Texas Scorecard observed that "Election-related matters are mostly handled by specialized staff within the office's elections division."

Garza noted that Secretary Scott's visit "highlights the partnership he has already demonstrated since taking office and his focus on elections," adding he sees Scott as "a great ally for these coming years."

Gov. Greg Abbott appointed Scott to his position last October.

"Thank you for what you do to make elections work," Scott said to the administrators.

"As county election officials, you serve the most critical function in our democracy: You protect the integrity of the ballot box," Scott stated. "You make sure that Texas elections are accurate, fair, and secure."

"Elections administrators here in Texas and across the country are dealing with a crisis of confidence among voters and have been for the past several election cycles," he added. "Not only are voters animated about the issues and our candidates on the ballot, they're animated about the integrity of the ballot box."

The Brennen Center for Justice stated, "we must be careful not to undermine free and fair access to the ballot in the name of preventing phantom voter fraud."

The article continues by saying that "most allegations of fraud turn out to be baseless."

Scott believes the current audit of the 2020 election will serve as "an information mechanism to pass knowledge on to the voters" about how elections are conducted.

"Is there fraud in elections?" he inquired. "Probably as long as there's been elections, somebody's been trying to game elections."

Scott also called for further transparency.

“Heider Garcia said it best at our election law conference: ‘Give us a chance to show you what we do.’ That’s what we need to be telling people, our voters, our fellow citizens,” he stated.

Heider Garcia is the Tarrant County Elections Administrator.

“It’s the thing that should give people confidence,” he added. “Make it transparent.”

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Texas election officials blame new voting law for rise in rejected mail-in ballot applications
Julian Aguilar
KERA News
January 14, 2022
https://www.keranews.org/politics/2022-01-14/texas-election-officials-blame-new-voting-law-for-rise-in-rejected-mail-in-ballot-applications

All over the state, county officials report they’re rejecting hundreds of applications for mail-in ballots, an issue several attribute to recent election law changes championed by state Republicans.
With COVID-19 cases on the rise and the March primary fast approaching, county officials across the state are rejecting a high number of applications submitted by voters who wish to vote by mail instead of going to the polls.

The issue centers on new requirements passed by state lawmakers last year during the 87th Texas Legislature and the special sessions that followed. Senate bill 1, by state Sen. Bryan Hughes, R-Mineola, ushered in sweeping changes to election procedures, including what information must be included on an application for a mail-in ballot.

The law requires that applications include a potential voter’s driver’s license numbers or Social Security information. That information must match the data on the person’s previously-submitted voting record. Critics of the provision say most people don’t remember which number they used when originally registering.

In Bexar County, 42 of the 80 ballot applications received Thursday were rejected, Bexar County Elections administrator Jacque Callanen told Texas Public Radio. And roughly half of Travis County’s mail-in ballot applications for the March primary election have been rejected, KUT reported Thursday.

Many who spoke out against SB 1 before it passed said the legislation was designed to disenfranchise voters. Now, they say the high number of rejected ballots proves that’s exactly what is happening.

“‘It’s making the process not only more difficult to follow along but people are scared to put perhaps their voter information, their driver’s license, their Social Security number, to have it mailed around,” Harris County Elections Administrator Isabel Longoria told Houston Public Media.

Of the 1,276 mail-in ballot applications received to date by Harris County, Longoria said 208 have been rejected, about 16%. But in 2018, only 4,979 applications were rejected out of 78,745, about 6 %.

“Senate bill 1, as predicted by election officials, is making it harder for voters to apply to vote by mail,” she said.

State watchdog groups are also weighing in, and are urging voters to be more proactive this election cycle.

“As things stand now, about half of those voters are being blocked from having their voices heard,” Stephanie Gomez, the associate director at Common Cause Texas, said in a statement. “If this isn’t fixed, this single provision of SB 1 could block up to a half-million Texans from voting by mail this year.”

“In the meantime, we urge all Texans to be your own advocates for your freedom to vote,” added Gomez. “While the politicians in charge are determined to make it as hard as possible to vote, Common Cause Texas is ramping up our Texas-sized election protection to ensure our communities can make their voice heard at the ballot box.”

Hughes’ district office didn’t respond to a request for comment on the criticisms levied against his legislation. But the Texas Secretary of State’s office, which oversees state elections, released a statement Friday urging county administrators “to seek advice and assistance on the correct method of processing mail ballot applications."

The office also singled out Travis County, which Texas Secretary of State John Scott said “made the decision to reject these mail ballot applications before contacting our office.”

“We call on Travis County to immediately review and re-examine the mail ballot applications in question to determine whether they were processed in accordance with state law, with the goal of reinstating and minimizing any disruption to eligible voters who have properly submitted their application for ballot by mail,” Scott said. “We anxiously await the results of their re-processing of these mail ballot applications."

The statement follows a brief back-and-forth on Twitter Thursday where Scott’s office and Travis County officials traded jabs over how the offices communicate.

While that bickering unfolds in Austin, election officials hundreds of miles away told KERA they hope there is enough time to educate potential voters of the changes to mail-in ballot procedures before upcoming registration deadlines.

“Anytime you do anything like this and ask for more information without a lot of notice or information being given out to the public you’re going to have issued like this,” said Lisa Wise, the El Paso County Elections Administrator.

Wise said her office has only received 103 applications for mail-in ballots, but 23 of those were rejected — including 11, or roughly 10 %, that didn’t meet the state’s new identification requirements.

The others didn't indicate party affiliations as required or lacked other information. Wise said her office has also received more applications that haven't yet been processed.

"We're just trying to make sure we can turn around the notifications as soon as possible to let voters know" about the changes, she said.

Another hurdle in processing the applications is that some voters are sending in old applications instead of the newer versions now required under SB1.

In Tyler, Smith County Elections Administrator Michelle Allcon said her office has only rejected a small number of ballot applications, but those were all due to residents not using the new form.

"The rejections that we've had are due to them using forms that expired in the November 2021 election," she said.

In the Rio Grande Valley's Hidalgo County, 64 out of the 77 mail-in applications have been rejected so far. Hidalgo County Elections Analyst Sal Hernandez said the office does not have exact figures, but that a large number of the rejections were due to outdated forms.

"People are not fully aware of it even though it's on the website," he said. "We have sent them new applications."

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Texas launches digital ballot-by-mail tracking system
Kelsey Thompson
KXAN-TV
January 16, 2022
https://www.kxan.com/news/texas/texas-launches-digital-ballot-by-mail-tracking-system/

AUSTIN (KXAN) — Voters utilizing ballot-by-mail offerings can now track the status of their ballot online with the launch of a new digital tool. The digital initiative was created through House Bill 1382 during the 87th Texas Legislature.

The digital tool lives on the Texas Secretary of State's website, under the "My Voter Portal" tab. Officials required the launch of the program come in time for the March primary elections.

"I'm excited that the statewide Ballot by Mail tracking tool is now available online through the Secretary of State's website," Rep. John Bucy III (D-Austin) said in the release. "We passed H.B. 1382 to increase accessibility, efficiency, and transparency for Texas voters. This is the type of common sense modernization needed in Texas elections."

Those using the tool will fill out their personal information into the online form, including their name, date of birth, driver's license number or Department of Public Safety I.D., address and the last four digits of their social security number. From there, the tracker will trace and report the current status of a person's ballot-by-mail application or ballot as it makes its way through the system.

To check your latest voter registration status, click on the “Am I Registered?” tab under the “My Voter Portal.”

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One county in Texas turns down 7 times as many vote-by-mail applications after new suppression laws: report
Sarah K. Burris
Raw Story
January 17, 2022
https://www.rawstory.com/texas-voter-suppression-help-tips/

The 2022 primary elections in Texas will come on March 1, but the voter suppression bills are already having an impact on those who hoped to participate.

The Harris County Judge, who manages elections in the largest county in the state, tweeted that she has been forced to refuse seven times as many vote by mail applications as last year.

Linda Hidalgo explained that because of the new laws, people must register to vote with their driver's license number and if you use your social security number with your mail-in ballot, it gets rejected:

“In Harris County percentage-wise we’re rejecting 7 times more mail ballot apps than before, because of new TX voter suppression laws that create a maze of technicalities. Example: if you register to vote with your DL number but request a mail ballot with your SSN, you’re rejected”

Another person noted that the new ballot application was also "written to cause confusion and uncertainty." He said that it requires people to know their VUID or precinct number. The VUID is a Voter Unique Identifier. He explained it can be found by going to the Secretary of State's website input an ID or license number with date of birth. It would then spit out the VUID. The same can be said with the precinct number.

Vote.com also has a precinct location number for folks.

Many responded that one of the biggest problems is that not everyone is tech-savvy and not everyone has access to computers. For that, the Texas Secretary of State is accepting phone calls at (512) 463-5650 or email at elections@sos.texas.gov.

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Texas says supply chain issues have limited the number of voter registration forms it can give out
Ashley Lopez
KUT-FM
January 18, 2022
https://www.kut.org/politics/2022-01-18/texas-says-supply-chain-issues-have-limited-the-number-of-voter-registration-forms-it-can-give-out

The Texas Secretary of State's office is having more trouble than usual getting enough voter registration cards to groups who help Texans register to vote.

Sam Taylor, assistant secretary of state for communications, said supply chain issues have made it harder and more expensive to get paper, which means the Secretary of State's office will be giving out fewer voter registration forms to groups ahead of elections this year.

"We are limited in what we can supply this year, because of the paper shortage and the cost constraints due to the price of paper and the supply of paper," he said.

Grace Chimene, the president of the League of Women Voters of Texas, said it is not unusual for the Secretary of State to not have enough forms to fill all the requests it gets from groups like hers ahead of elections. This particular shortage, however, is affecting an important part of her group's work: registering thousands of newly naturalized citizens.

Chimene said in previous years, her group, which has chapters across the state, has been able to get enough forms to pass out at naturalization ceremonies. Often, she said, the group partners with the state to give out several thousand forms at each ceremony.

"The League in Houston registers about 30,000 new citizens every year through these ceremonies in the past," Chimene said.

During the COVID-19 pandemic, there has been a mix of in-person and remote ceremonies. Chimene said her group has either been handing out voter registration materials at in-person events or they've been sending out packets they put together ahead of time to those new citizens.

Either way, the League and their volunteers often ask for thousands of voter registration forms ahead of these ceremonies.

"It's a really important job that we do and we value it, and I think the new citizens value it also," Chimene said.

Taylor said the Secretary of State's office has been forced to limit each group to 1,000 to 2,000 registration forms per request. He said this shortage is coming at a time when many groups are seeking out new voter registration forms because of a change in Texas' voter registration laws created under Senate Bill 1, a controversial voting law that went into effect last month.

"The voter registration application changed this year for one reason: It's because the legislature decided to increase the penalty for illegal voter registration from a class B misdemeanor to a class A misdemeanor," he said. "And that has to be reflected on the new voter registration application."

Taylor said counties and groups across the state have had to order new applications that comply with the new law. He said officials will have to reject applications that are submitted on "old stock" that doesn't reflect the new rules.

Chimene said all these constraints present serious issues for her group as they try to get voter registration materials together ahead of these large naturalization ceremonies.

“We are treating all organizations that request these the same,” Taylor said. “We are trying to fulfill these requests as fast we can. But the fact is we simply don’t have the supply to honor every single request for free applications.”

According to Chimene, this is one of the pitfalls of Texas being among the few states in the country that does not have online voter registration. Supply chain issues are not as big of a problem when you can just direct someone to a website.

She’s also worried about the message this sends to newly naturalized citizens, which she said have been under particular scrutiny by the Secretary of State’s office recently. Chimene said the League is worried that newly naturalized, eligible voters are being targeted by the state's latest focus on potential non-citizen voters.

“We are concerned about it, and we are looking into it,” Chimene said. “It just sort all goes together: not providing the service they are supposed be providing to the citizens of Texas.”

Chimene said the Secretary of State’s office has told the League to seek out donations instead of relying on the state for voter registration forms. She said she “didn’t appreciate” this considering the fact her group is a non-partisan nonprofit. However, Chimene said, her group will try and do what it can.

“We will ask our supporters, we will ask our friends and our neighbors,” she said. “And find out if we could have somebody donate to get this done.”

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'It's a red flag': Counties see increase in rejected mail-in ballot applications under new Texas voting rules
Marcelina Benito
KHOU-TV
January 14, 2022
https://www.khou.com/article/news/politics/texas-counties-increase-rejected-mail-in-ballot-applications/285-8746be6e-0d32-4f18-8802-08c3394fa6be

HARRIS COUNTY, Texas — The March 1 primary in Texas is only six weeks away. It will be the first major election since SB 1, Texas' controversial new voting law went into effect.

Election officials report hundreds of Texas voters are already having issues requesting mail in ballots.

"This is uncharted territory for us," said Isabel Longoria, Harris County election administrator.

Longoria and her team are prepping for that critical primary.

"The Secretary of State sends us daily updates on how to make SB 1 happen, and it feels like a rushed process for something that's so important," Longoria said.

Under the new law, voters wanting a mail-in ballot must include their drivers license number or social security number on their application. Many applications are failing to meet the new ID requirements.

"It's those kind of errors that are a direct result of SB 1, making it harder for voters to get through an already complex system," Longoria said.

So far this year in Harris County, 16% of the 1,276 applications have been rejected. In the 2018 Texas primary, only 2.5 percent of 4,800 applications were rejected.

"It's a red flag that we're watching," Longoria said.

In Travis County, the problem is even worse with nearly 50% of mail-in ballot applications rejected there so far.

"The confusion is going to have what I will call an equal effect on Democrat and Republican voters," said KHOU political analyst Bob Stein.

Stein predicts these types of problems will only increase.

"It may not have much impact in the primaries, but in November there will be a lot of concern," Stein said.

To make sure your mail-in ballot request isn't rejected, Longoria's best advice is to include your phone number and/or email in the application so they can call you in case there's something that needs to be corrected.

And if you have any questions about the process, you can always call Harris County Elections at 713-755-6965. The deadline to request a mail-in ballot for the primary is Feb. 18.

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New voting law leading to high rejection of mail-in ballot applications in Texas
Kelly Mena
CNN
January 14, 2022
https://www.cnn.com/2022/01/14/politics/texas-mail-in-ballot-application-rejections/index.html

(CNN) Hundreds of mail-in ballot applications are being rejected in some of Texas's largest counties because of the new voting law passed by the Republican-led state legislature last year, according to multiple election officials.

Election officials in Harris County, Travis County and Bexar County say they are rejecting a high volume of mail-in ballot applications for the March 1 primary. The counties include Houston, Austin and San Antonio, respectively.

Under the new voting law, voters must include either their driver's license number or the last four digits of their Social Security number on their applications. Those numbers are then matched against voters' records. For a voter to be approved for a mail-in ballot, the numbers have to be the same.

However, not every voter remembers which number they gave when they initially registered to vote, leading to the application rejections.

Harris County has rejected 208 of 1,276 applications, the county's communications director Leah Shah, told CNN.

Shah called the rejection rate "a red flag." She also noted other aspects of the restrictive voting law -- which includes a provision that bans election officials from sending unsolicited mail-in voting applications that would include information on how to properly fill out the applications -- meant voters are left with little help.
"We have our hands tied as far as what we can and can't say or teach the public regarding [mail-in ballot applications]," said Shah.

Meanwhile, Travis County's election clerk said they've rejected about half of the roughly 700 applications they've received, according to the Texas Tribune. CNN reached out to the Travis County clerk for a comment.

Republican Secretary of State John Scott called the rejection rate in Travis County "surprising" before calling on the county to reexamine the applications.

"We call on Travis County to immediately review and re-examine the mail ballot applications in question to determine whether they were processed in accordance with state law, with the goal of reinstating and minimizing any disruption to eligible voters who have properly submitted their application for ballot by mail. We anxiously await the results of their re-processing of these mail ballot applications," said Scott in a statement on Friday.

Scott went on to urge county officials to reach out to his office for assistance "on the correct method of processing mail ballot applications."

In Bexar County, officials have rejected 200 applications on which the ID section was not filled out and another 125 were rejected because the voter provided their driver's license number which wasn't on file, according to the Tribune.

In other counties, officials are rejecting mail-in ballots at an alarming rate as well.

Cidney Compton, the absentee coordinator in Denton County, told CNN that voters there are using outdated applications that don't include an ID section. Compton said the county has received less than 200 applications and has denied about 50.

The process for voters across the state to fix their applications involves election officials sending them a rejection letter with an explanation of the missing information along with a new application. Voters can then either send in the new application or correct the information through a new online portal, according to guidance from the secretary of state's office and election officials.

This is the first election cycle in which the new voting law is in effect after being enacted last September. The bill was part of a national push by Republicans seizing on Trump's false lies of the 2020 election to clamp down access to the ballot box.

Texas already has restrictions for who is eligible for mail-in ballots. Under the law, those who are over age 65, out of the county on Election Day or have a disability or illness that prevents them from voting in person are eligible.

Voting rights groups are now calling on voters to be proactive about educating themselves on the new voting law.

"In the meantime, we urge all Texans to be your own advocates for your freedom to vote," Common Cause Texas Associate Director Stephanie Gómez said in a statement Friday. "Make a plan to vote and think about contingency plans so that you can still vote even if you hit one of the barriers that were created by SB 1."

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Montgomery County approves early-voting sites for March primaries
Jishnu Nair
Community Impact
January 14, 2022
https://communityimpact.com/houston/conroe-montgomery/election/2022/01/14/montgomery-county-approves-early-voting-sites-for-march-primaries/

Montgomery County commissioners approved early-voting sites and times for March 1 primaries at a Jan. 11 Commissioners Court session.

The filing deadline for candidates running in the county was Dec. 13. A list of candidates for office can be found here.

Early voting will take place on the following dates and times:

- Feb. 14-18, 8 a.m.-5 p.m.
- Feb. 19, 7 a.m.-7 p.m.
- Feb. 20, 11 a.m.-5 p.m.
- Feb. 22-25, 7 a.m.-7 p.m.

The following locations were approved for early voting:

- Central Library, 104 I-45 N., Conroe
- North Montgomery County Community Center, 600 Gerald St., Willis,
- Lone Star Community Center, 2500 Lone Star Parkway, Montgomery
- Montgomery County Community Development Center, 31355 Friendship Drive, Magnolia
- Magnolia Event Center, 11659 FM 1488, Magnolia
- South County Community Center, 2235 Lake Robbins Drive, The Woodlands
- Spring Creek Greenway Nature Center, 1300 Riley Fuzzel Road, Spring
- George and Cynthia Woods Mitchell Library, 8125 Ashlane Way, The Woodlands
- East Montgomery County Fair Association Building, 21675A McCleskey Road, New Caney
- Security Community Center 18760 Hwy. 105 E., Cleveland
- East Montgomery County Community Development Center, 16401 First St., Ste. 100, Splendora

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- Election Central (limited ballots, special forms of early voting, and ballot by mail only), 9159 Airport Road, Conroe

For more information on elections and registering to vote, see the Montgomery County Elections website or the Texas secretary of state website. The deadline to register to vote for the March 1 primary is Jan. 31.

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New voter registration certificates are in the mail for El Paso County registered voters
Yvonne Suarez
KVIA-TV
January 14, 2022
https://kvia.com/news/2022/01/14/new-voter-registration-certificates-are-in-the-mail-for-el-paso-county-registered-voters/

EL PASO, Texas -- Registered voters can expect to see their new Voter Registration Certificates in their mailboxes soon. The El Paso County Elections Department says the cards are blue and are valid from January 1, 2022 through December 31, 2023. Those registered voters who do not receive their new certificate should call the El Paso County Elections office at (915) 546-2154.

The Voter Registration Certificate is not required when voting in person and will not replace an acceptable form of photo identification for voting. Acceptable forms of photo I.D. include Texas Driver's License, Texas Personal Identification Card, United States Military Identification Card, or a United States Passport book or card. For more information on acceptable forms of photo I.D., visit elpasocountyvotes.com:

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New Texas elections law, decried as vote suppression, leads to record number of rejected mail ballot applications
Taylor Goldenstein
Houston Chronicle
January 15, 2022
https://www.houstonchronicle.com/politics/texas/article/New-Texas-elections-law-decried-as-vote-16777151.php

County officials in urban areas across the state say they've been forced to reject an unprecedented number of mail ballot applications because they do not adhere to new requirements stipulated by the election bill passed last year by the Legislature's Republican majority.

The new law, which Democrats decried as an attempt to suppress the votes of minority groups, requires mail voters to give their driver’s license number or state ID number. In the absence of those, they can provide the last four digits of their Social Security number or indicate they do not have the required IDs.

The problem some counties are running into — one that critics of the bill had warned lawmakers about last year — is that the number provided by the voter must match with what the county has on

file, typically the one used to register to vote. And an online portal run by the state, per the new law, to allow voters to check on their applications, has had a bumpy rollout in the Secretary of State's Office.

"We have never had to reject applications for ballot by mail in this number," said Jacque Callanen, Bexar County elections administrator.

"(Voters) expect the next thing they're going to get from us is the actual ballot to vote on and mail back. Now all the sudden they're receiving a letter from us that says, "Ehh, we need you to fill out this other information before we can process your ballot' … That's frustrating for them; it's frustrating for us."

As of the latest tally on Wednesday, the county had rejected 325 applications. Callanen said she plans to hire two temporary workers to deal with this issue alone.

In Harris County, officials say they've so far had to reject about 208 applications out of more than 1,000 applications received so far for the same reasons.

In both counties, most of the rejected applications were lacking any ID information from the voter.

There is time to fix the problems ahead of the primaries: The state's deadline for mail ballot applications is Feb. 18. Election Day is March 1.

So far, Harris County is seeing fewer applications than usual for this time of year, but that could be related to political campaigns and parties had to wait for redistricting before mailing out applications, county spokeswoman Leah Shah said. Under the new voting law, counties are not allowed to mail out ballot applications, as many had in the past, unless a voter requests one.

For comparison's sake, during the same time period ahead of the last midterm election in 2018, the county received nearly 5,000 applications and rejected about 100.

"We are seeing a 700-percent increase in the percentage of rejected mail-in ballot applications, which certainly raises a red flag for our office," elections administrator Isabel Longoria said. "What we're seeing here is a direct byproduct of SB1, which simply makes voting more difficult."

The problem was even more pronounced in Travis County, where officials said as of Thursday they'd rejected about half of the about 700 applications they'd received, most because of the new ID requirement.

"A lot of the administrators in the state saw potential for this to be a challenge for voters to successfully submit applications," said Remi Garza, president of the Texas Association of Elections Administrators. "We did our best to communicate that to the policymakers — had they heeded our advice and perhaps phased this process in or allowed for applications to be processed and not immediately rejected, I think it would have been easier for voters to access the ballot-by-mail process."

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Sen. Bryan Hughes, R-Mineola, who authored Senate Bill 1, the new voting bill, has said that the purpose of the legislation was to make it easier to vote and harder to cheat. Hughes did not respond to a request for comment Friday.

Rep. Jessica González, D-Dallas, vice-chair of the Texas House Elections Committee, said this was exactly the effect Democrats had repeatedly tried to warn Republicans this bill would have.

“The March Primary is quickly approaching, and I worry for senior and rural Democratic and Republican voters that may not have access to their ballot due to these new requirements,” González said. “As elected officials, our goal should be to expand voter access, not make voting more complicated and difficult.”

It’s the kind of matter that González and eight of her Democratic colleagues said they’d like to raise with Secretary of State John B. Scott, whom Gov. Greg Abbott appointed in October. In a letter they sent Friday, the Democrats said they’d also like to discuss the office’s audit of the 2020 election; the first phase’s results released last month yielded no proof of widespread fraud.

Abbott’s last two appointees, Ruth Hughs and David Whitley, failed to receive confirmation by the Texas Senate Nominations Committee. Whitley resigned after losing confidence from legislators with a botched voter purge in which thousands of legal voters were targeted.

In a hearing last year, the state’s director of elections under Hughs during invited testimony pronounced Texas’ 2020 election as “smooth and secure.” Some lawmakers say that testimony led the Republican-led Senate to oust her by declining to hold a vote to confirm her appointment.

Secretary of State blames county

Texas has some of the most restrictive voting laws in the country, and among those are its limitations on who can vote absentee. Even during the pandemic as some Republican states moved to temporarily expand vote-by-mail access, Texas was one of seven in the country where an excuse other than risk of infection was still needed.

To qualify, the Texas Election Code requires voters to be 65 or older, disabled, in jail or out of their home county during the voting period.

The Secretary of State’s office in a statement on Friday said the office was “surprised to learn for the first time of the apparent wholesale rejection of mail ballot applications by Travis County” and called on the county to re-examine the rejected applications.

“We urge all county election officials to contact the Texas Secretary of State's office to seek advice and assistance on the correct method of processing mail ballot applications,” said spokesman Sam Taylor.

On Twitter, the office showed less patience with county officials: “Always, you can pick up the phone and call our office instead of calling a press conference. Much more time efficient,” responding to Travis County, which is set to hold one on Tuesday.

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It was not clear what the office expected the counties to do differently, however, and the office did not respond to repeated requests for clarification.

“I don’t know what other options the Secretary of State’s office thinks are available,” Garza said. “I don’t want to challenge what the Secretary of State’s office thinks should be happening, but I think if they were sitting in our chairs, I think our hands are tied.”

The new election law also included a process for voters to correct such issues with their mail ballot applications, one that voters are supposed to be able to stay on top of via an online ballot tracker. Yet some election officials say they haven’t been told how to upload information to the web application.

A spokesman told KUT on Friday that guidance was forthcoming within days on how to use the online ballot tracker.

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Pence says federal election bills ‘offend the Founders’ intention that states conduct elections’
Brian Rokus and Shawna Mizelle
CNN
January 14, 2022
https://kvia.com/your-voice-your-vote/politics/cnn-us-politics/2022/01/14/pence-says-federal-election-bills-offend-the-founders-intention-that-states-conduct-elections/

Former Vice President Mike Pence contrasted Democrats’ push for election legislation with his own actions at the US Capitol on January 6, 2021, in an op-ed published in The Washington Post on Friday.

Pence, in the piece headlined “Jan. 6 was a power grab. So is busting the filibuster to nationalize elections,” writes, “On Jan. 6, an angry mob ransacked the Capitol, largely to try to get Congress and me, as the president of the Senate, to use federal authority to overturn results of the presidential election that had been certified by all 50 states” and credits law enforcement with securing the Capitol.

He goes on to accuse President Joe Biden and Senate Democrats of using the memory of the riot to “attempt another federal power grab over our state elections.”

“Their plan to end the filibuster to allow Democrats to pass a bill nationalizing our elections would offend the Founders’ intention that states conduct elections just as much as what some of our most ardent supporters would have had me do one year ago,” Pence writes.

His rebuke comes as the Senate is poised to take up voting legislation on Tuesday. Biden has aggressively pushed for the Senate to change its filibuster rules in order to clear the way for the legislation to pass with fewer votes but has faced opposition to the rules change from moderate Democratic Sens. Joe Manchin of West Virginia and Kyrsten Sinema of Arizona.

Pence says in his opinion piece that during the January 6 election certification, he upheld the principle that elections are determined at the state level — not by Congress.

On that day, he had rejected then-President Donald Trump's entreaties to subvert the constitutional process that would certify Biden's election victory, earning Trump's wrath. After the mob breached the Capitol, Pence was rushed out of the Senate chamber as rioters calling for his death stormed the halls.

"The notion that Congress would break the filibuster rule to pass a law equaling a wholesale takeover of elections by the federal government is inconsistent with our nation's history and an affront to our Constitution's structure," Pence writes in the op-ed, before going on to criticize proposals in the election legislation.

In the piece, the former vice president praised states that passed restrictive voting laws last year, such as Texas and Georgia, writing that they "led the way with common-sense reforms" in an attempt "to restore confidence in the integrity of our elections."

Pence called on senators to "do as you did before: Uphold the right of states to conduct and certify elections. Reject this latest attempt to give Washington the power to decide how the United States' elections are run. And keep the oath you made before God and the American people to support and defend the Constitution."

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In Quest for Energy Independence, Mexico Is Buying a Texas Oil Refinery
Clifford Krauss
New York Times
January 18, 2022
https://www.nytimes.com/2022/01/18/business/economy/mexico-oil-refinery-texas.html

DEER PARK, Texas — Two giant murals, on storage tanks at an oil refinery here, depict the rebels led by Sam Houston who secured Texas' independence from Mexico in the 1830s. This week those murals will become the property of the Mexican national oil company, which is acquiring full control of the refinery.

The refinery purchase is part of President Andres Manuel López Obrador's own bid for an independence of sorts. In an effort to achieve energy self-sufficiency, the president of Mexico is investing heavily in the state-owned oil company, placing a renewed emphasis on petroleum production and retreating from renewable energy even as some oil giants like BP and Royal Dutch Shell are investing more in that sector.

Mr. López Obrador aims to eliminate most Mexican oil exports over the next two years so the country can process more of it domestically. He wants to replace the gasoline and diesel supplies the country currently buys from other refineries in the United States with fuel produced domestically or by the refinery in Deer Park, which would be made from crude oil it imports from Mexico. The shift would be an ambitious leap for Petroleos Mexicanos, the company commonly known as Pemex. The company's oil production, comparable to Chevron's in recent years, has been falling for more than a decade, and it shoulders more than $100 billion in debt, the largest of any oil company in the world.

The decision to pay $596 million for a controlling interest in the Deer Park refinery, which sits on the Houston ship channel and would be the only major Pemex operation outside Mexico, is central to

fulfilling Mr. López Obrador's plans to rehabilitate the long-ailing oil sector and establishing eight productive refineries for Mexican use. Mexico also agreed to pay off $1.2 billion in debts that Pemex and Shell jointly owe as co-owners of the refinery, which is profitable.

"It's something historic," Mr. López Obrador said last month. In a separate news conference last year, he said, "The most important thing is that in 2023 we will be self-sufficient in gasoline and diesel and there will be no increase in fuel prices."

While Mr. Lopez Obrador's policies diverge from the rising global concern over climate change, they reflect a lasting temptation for leaders and lawmakers worldwide: replacing imported energy sources with domestically produced fuels. Further, the generally well-paying jobs the oil and other fossil fuel industries provide are politically popular across Latin America, Africa as well as industrialized countries like the United States.

In the 1930s, the Mexican government took over Royal Dutch Shell's operations south of the border as it nationalized the entire oil industry then dominated by foreigners. Now Mr. López Obrador is poised to go one step further, taking complete control of a big Shell oil refinery.

The takeover is all the more pointed because it is happening in an industrial suburb that calls itself "the birthplace of Texas," where rebels marched to the San Jacinto battlefield to defeat the Mexican Army — the event commemorated on the refinery murals. The battlefield is a five-mile drive from the refinery.

It is hard to overestimate the connection between oil and politics in Mexico, where the day petroleum was nationalized, March 18, is a national holiday. Oil provides the Mexican government with a third of its revenues, and Pemex is one of the nation's biggest employers, with about 120,000 workers.

Mr. López Obrador hails from the oil-producing state of Tabasco, and the powerful Pemex labor union is a crucial part of his political base. He ran on a platform of rebuilding the company, and has raised its production budget, cut taxes it pays and reversed efforts by his predecessor to restructure its monopoly over oil production in the country.

When he took office three years ago, Mr. López Obrador began undoing changes made in 2013 to the country's Constitution intended to open the oil and gas industry to private and foreign investment. He is also pushing to reverse electricity reforms that his predecessor, Enrique Peña Nieto, put in place to increase the use of privately funded wind and solar farms and move away from state-run power plants fueled by oil and coal.

Energy experts say Mexico is backtracking on a commitment it made a decade ago under President Felipe Calderón, to generate more than a third of its power from clean energy sources by 2024. Mexico now produces just over a quarter of its power from renewables.

"They are going to heavier fuels rather than to lighter fuels," said David Goldwyn, a top State Department energy official in the Obama administration. "Virtually every foreign company — Ford, Walmart, G.E., everybody who operates there — has their own net-zero target now. If they can't get access to clean energy, Mexico becomes a liability."

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Mr. López Obrador's government has said it will combat climate change by investing in hydroelectric power and reforestation.

Many of the Mexican president's initiatives are being contested by opposition lawmakers and the business community. But Mr. López Obrador can do a lot on his own. He plans to spend $8 billion on a project to build an oil refinery in Tabasco state, and more than $3 billion more to modernize six refineries.

The purchase of the Deer Park refinery is crucial to his plans because the Tabasco complex will not be completed until 2023 or 2024 and will not produce enough gasoline, diesel and other fuels to meet all of Mexico's needs.

Long a partner of Pemex, Shell, which operates the Deer Park refinery, is selling its stake in part to satisfy investors concerned about climate change who want the oil giant to invest more in renewable energy and hydrogen.

Under Mexican ownership the refinery will continue its practice of using Mexican crude oil, but it will probably sell more of the gasoline and other fuels it produces to Mexico.

In the future, some energy experts said, Pemex could also use the Deer Park refinery to process oil from other countries that also produce the kinds of heavy crude that Mexico does.

"I think it's a good deal and makes sense for Pemex," said Tom Kloza, global head of energy analysis at Oil Price Information Service, who noted that Deer Park could perhaps process Venezuelan oil if the United States lifted sanctions against that country.

The Mexican policy changes would have only a modest and temporary impact on American refineries, which can replace Mexican oil with crude from Colombia, Brazil, Saudi Arabia and Canada. Refiners could lose as much as a half-million barrels of transportation fuel sales a day to Mexico, but energy experts say refiners would be able to find other markets.

Guy Hackwell, the general manager of the Deer Park complex, said, "Best practices will remain in place." He said the "vast majority of the work force will report to the same job the day after the deal closes."

As for the murals, a Pemex spokeswoman, Jimena Alvarado, said, "We would never remove a historical mural."

Residents in Deer Park, in the heart of the Gulf of Mexico petrochemical complex, say they feel assured that locals will run the plant and Shell will continue to own an adjoining chemical plant. "The phone numbers will remain the same for who we contact in the event of an emergency and we will still have the same people and relationships, so I feel good about that," Deer Park's city manager, Jay Stokes, said.

But some energy experts said Mr. López Obrador's approach to energy, including the refinery purchase, would waste precious government resources that could be better used to reduce greenhouse gas emissions and local air pollution. There are also doubts that Mexico can build enough refining capacity to fulfill the president's objectives.

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Jorge Piñon, a former president of Amoco Oil de Mexico, said Mexico most likely would not be able to immediately profit from slashing exports of crude and processing its own fuels since the refinery business typically has low profit margins, especially in Latin America.

He said the Mexican refineries could not match American refineries in handling Mexico's high-sulfur heavy crude. Mexican fuels made from heavy oil caused severe air pollution problems in many cities before the country began importing cleaner-burning American gasoline and diesel over the last 20 years.

By exporting less oil, Mexico would also almost certainly use more of it for domestic power generation, potentially pushing out solar and wind generation and producing more air pollution and greenhouse gas emissions.

"His nationalistic decisions will have a negative impact on climate change," Mr. Piñon said. "He is marching back to the 1930s."

Mr. López Obrador is unapologetic. "Oil is the best business in the world," he said at a news conference last May.

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Texas border cities registered 'huge' spike in retail sales after bridges reopened
Sandra Sanchez
Border Report
January 18, 2022
https://fox4kc.com/border-report/texas-border-cities-register-huge-spike-in-retail-sales-after-bridges-reopened/

McALLEN, Texas (Border Report) — The South Texas town of McAllen along with other Texas cities along the Mexico border experienced a jump in retail sales in November after travel restrictions were lifted, according to new sales tax data released by the state's comptroller.

Texas Comptroller Glenn Hager reported that McAllen had a 34.8% increase in city sales and use taxes in November from the previous year. This increase coincided with the Biden administration easing border restrictions to allow Mexican nationals vaccinated against COVID-19 to come into the United States to shop.

McAllen will receive $7.7 million back from the state for sales in November — that's a $2 million increase from the $5.7 million the city received for the same period the year before.

And that's welcome news to McAllen City Manager Roel "Roy" Rodriguez, who told Border Report the city has been hurting after border restrictions remained in place for nearly 20 months — extending back to the Trump presidency, as a way to stop the spread of COVID-19.

"Absolutely it has something to do with the borders reopening. It certainly has some to do with the bridge reopening with sales up almost 35%," Rodriguez said.

“To receive $2 million more than the same month last year. It’s huge. It’s huge!” he said.

Overall, cities across Texas experienced a 25% increase in sales in November, from the previous year, Heger’s office announced Wednesday.

Sales tax distributions from the state to border cities for November sales:

- Brownsville, on the Gulf Coast across from Matamoros, Mexico, had a 32% increase in sales in November and is getting $4.8 million from the state, up from $3.6 million a year ago.
- The West Texas town of El Paso had a 28% increase in sales as Mexican nationals from Juarez, Mexico, returned to shop. El Paso is getting nearly a $2 million bump in sales tax from the state, totaling $10.4 million, up from $8.1 million received in January 2020.
- Laredo, across from Nuevo Laredo, Mexico, had a 27% increase, earning the South Texas border city $4.5 million from the state.
- Eagle Pass experienced a 30% jump in sales in November.
- Del Rio had 22% more sales in November.
- Roma had a 14% increase in sales.
- Rio Grande City had a 11% spike.

Search all Texas cities from the comptroller’s chart

Rodriguez said he hopes sales will continue on an upswing in McAllen because the city coffers suffered during prolonged land border restrictions.

“It was pent-up demand,” Rodriguez said about the swarm of shoppers who crossed from Reynosa, Mexico, to McAllen when the border reopened fully.

“They opened the bridge and they came over,” he said. “Let’s see if that continues to last. I think it will.”

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‘No way we could afford to foot the bill to do what is needed’: South Texas county gets state dollars to recoup border crisis expenses
Anastasiya Bolton
KENS-TV
January 14, 2022
https://www.kens5.com/article/news/special-reports/at-the-border/south-texas-counties-confront-immigration-issues/273-34207fa7-6219-464c-bd21-65fca2bfbb3f

SARITA, Texas — If you’ve driven to South Padre Island, you’ve been to Kenedy County. You just may not have noticed it.

There is no place to stop—no gas station, no restaurant. Just the highway, ranches and 350 residents.

“When it's raining and it's green and the country's just busting at the seams, I tell you, we live in heaven,” says Kenedy County Judge Chuck Burns. “If it's drought conditions and hadn't rained for a while (and) everything's brown, I'll tell you we live in hell.”

Burns knows this area better than most. He’s a fifth-generation Kenedy County resident and a ranch owner.

“We run steers and we also have a hunting operation,” Burns told KENS 5. “We're the third-least-populated county in Texas in the fourth-least-populated county in the United States.”

Burns has a vested interest in what goes on in Kenedy County. So, he became a judge last summer, filling a vacant spot. This year he’s running to hold the seat officially. When he took the job, he expected it would entail the typical county judge duties. There is one, however, that caught him by surprise.

“We have an expense of recovering dead bodies that is very unforgiving terrain here,” Burns said. “Some of these people don't make it through. We’re encountering a greater number of bodies, for a lack of a better way to put it.”

Burns told KENS 5 he didn’t expect he and the county would be in the body-recovery business.

“That was not on my radar, to tell you the truth,” Burns said

The judge is talking about bodies of suspected migrants making their way north from the U.S.-Mexico border.

“There's no reason for them to stop here,” Burns said. “They're coming through to the rest of Texas in the United States.”

“I've lived here my whole life and understand the plight of the people coming through here and just how dangerous it is,” he added. “But as far as the extent of the numbers we were seeing and as fast as it was rising, when I took the office, I wasn’t expecting that to be on my radar as something I've really got to address to pay for, actually.”

Burns told KENS 5 that with body-recovery operations come additional expenses, including paying for an autopsy, for example.

“The numbers can skyrocket very quickly,” he said. “There is no way we could afford to foot the bill to do what is needed in this area. So, it was very imperative for me to reach for help and not neglect my responsibilities.”

Kenedy County is one of 53 in Texas that have signed border traffic-related disaster declarations and submitted those to the governor’s office.

“Kenedy County has suffered widespread severe damage, injury, loss of life and property due to the imminent threat resulting from immigrants using Kenedy County as a corridor for the transport of weapons, drugs and human trafficking,” the local disaster declaration reads, in part.

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According to the governor's office, the 53 counties include Bee, Brewster, Brooks, Chambers, Colorado, Crane, Crockett, Culberson, DeWitt, Dimmit, Duval, Edwards, Frio, Galveston, Goliad, Gonzalez, Hudspeth, Jackson, Jeff Davis, Jim Hogg, Jim Wells, Kenedy, Kimble, Kinney, Kleberg, La Salle, Lavaca, Live Oak, Mason, Maverick, McCulloch, McMullen, Medina, Menard, Midland, Pecos, Presidio, Real, Refugio, San Patricio, Schleicher, Sutton, Terrell, Throckmorton, Uvalde, Val Verde, Victoria, Webb, Wharton, Wilbarger, Wilson, Zapata and Zavala.

Burns also provided the state with estimates of how much money his county would need to recupe the various costs associated with migration.

According to the documentation he provided KENS 5, last summer the county filled out what is called a Border Cost Estimate Form, which detailed to the state the county's expenses, including the need for specialty all-terrain vehicles, overtime for telecommunication officers "due to the surge from the border crisis," and body recovery, including removal, autopsy and funeral expenses.

Burns asked the state for money from Gov. Greg Abbott's Operation Lone Star grant program, funded by the legislature.

"We have a responsibility to address the problem," he said. "We can't just stick our head in the sand."

Judge Burns told KENS 5 that within the last few weeks the state granted Kenedy County more than $700,000.

"It's a great start, and we're going to work with that," he said.

If the county needs more, Burns said he'll ask for more.

"We're still kind of a gateway into the rest of Texas as well as United States, we feel it important that we do our part," he said.

Burns said the way this grant worked: the county has to get reimbursed from the state for border-related expenses.

The county is now going through the gruesome task of counting the bodies of suspected migrants it has handled to get paid back for that.

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Hidalgo County Set To Dispute 2020 Census Count
KURV-AM
January 17, 2022
https://www.kurv.com/hidalgo-county-set-to-dispute-2020-census-count/

Saying the border region was again seriously undercounted, border congress members have requested a meeting with the new director of the U.S. Census Bureau.

Four of the five border representatives have written to Robert Santos claiming the 2020 Census likely missed large parts of Hispanic populations in rural areas along the U.S.-Mexico border, not unlike the 2010 Census.

Hidalgo County was “materially undercounted” during the 2020 Census, county officials are sending a letter to the state’s Census director in an effort to get the population count adjusted higher.

The letter asks for an investigation into the process of collecting the population data which took place as the coronavirus was sweeping through the region. County and Valley leaders maintain the pandemic prevented thousands of residents from being counted. As a result, officials say, the county is losing out on millions of crucial federal dollars.

The 2020 Census put Hidalgo County’s population at 870,781. County officials contend the population is closer to, or perhaps more than, 1 million.

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Shell to hand over Deer Park refinery to Pemex next week – sources
Ana Isabel Martinez
Reuters
January 13, 2022
https://www.reuters.com/business/energy/shell-hand-over-deer-park-refinery-pemex-next-week-sources-2022-01-13/

MEXICO CITY, Jan 13 (Reuters) - Mexican state oil company Petroleos Mexicanos will take control of the Deer Park refinery in Houston, Texas on Jan. 20, three sources with knowledge of the matter said on Thursday.

Royal Dutch Shell (RDSa.L) had agreed in May to sell its majority stake in the Deer Park refinery, which can process up to 340,000 barrels per day (bpd), to Pemex (PEMX.UL), its long-time partner in the plant, for about $596 million.

"Next Thursday, the payment and transfer of the asset will happen," said a Pemex source, who spoke on condition of anonymity. "The refinery will then be operated directly by Pemex". read more

Pemex has reached an agreement with personnel already working in the refinery, the source added.

The operators would be the same to guarantee stability, but they would no longer be working for Shell, the source said.

A Pemex delegation, including Chief Executive Officer Octavio Romero, will travel to Texas to finalize the deal on Thursday, a second source added.

Pemex did not immediately respond to a request for comment and a Shell spokesman did not immediately confirm the delivery date.

A third source close to the talks said there are still final transition activities pending, but added that he expected the deal to complete in the next few days.

Mexican Energy Minister Rocio Nahle did not confirm the Jan. 20 date in an interview with local television network Milenio, saying the timing of the process was being managed between Shell and Pemex.

"It is very risky to give a date ... but this process is already underway," Nahle said. "Hopefully soon."

Conversations had accelerated in recent days in order to complete the entire purchase operation before Feb. 1, the third source said.

Neither Shell nor Pemex have detailed what volumes of refined product Mexico will receive from the Texas plant nor how much crude it will be able to supply from now on.

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Over 100 Mexican immigration agents linked to bribery and corruption
Associated Press
January 14, 2022
https://www.borderreport.com/hot-topics/immigration/over-100-mexican-immigration-agents-linked-to-bribery-and-corruption/

MEXICO CITY (AP) — Mexico's immigration agency said Thursday that 105 of its agents have been reported to the internal affairs office for allegedly corrupt behavior.

The National Immigration Institute did not describe the purported wrongdoing, but said it was combatting extortion, as when border agents demand bribes to allow people to enter the country.

A sample of that corruption temptations was on display Jan. 6, when a group of Venezuelan migrants landed at the Mexico City airport.

The National Immigration Institute said that when the migrants lined up at immigration checkpoints, an agent reported that each one had a $100 bill tucked into their passport.

The Venezuelans said they had put the bills in the passports by mistake. They did not have the proper papers to enter Mexico, and were sent back to their country.

Mexico said earlier this month it will begin requiring travel visas for Venezuelans starting Jan. 21, after a surge in the number of migrants trying to reach the U.S. border.

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U.S. Energy Secretary to Visit Mexico to Discuss Power Market Concerns
Jess Smith
Latin Post
January 17, 2022
https://www.latinpost.com/articles/153643/20220117/u-s-energy-secretary-visit-mexico-discuss-power-market-concerns.htm

With the government's planned revamp of the Mexican electricity market foreseeably on the agenda, United States Energy Secretary Jennifer Granholm will travel to Mexico this week to meet with senior government officials, President Andres Manuel Lopez Obrador said on Monday.

"She'll meet with the Mexican energy minister and the foreign minister, and we'll also welcome her here at the palace," the president said at a usual morning press briefing.

AMLO Eyes Strengthening of State Controlled Power Sectors

The U.S. has voiced concern over a Lopez Obrador-led effort aimed at strengthening state control of the power sector at the expense of private companies.

During the visit, which will include meetings with Granholm and the Mexican foreign and energy ministers, Lopez Obrador stated that no topic will be off the table. He specifically mentioned prospective discussions on his proposed power industry changes.

Private investors have expressed concerns about the idea, and the U.S. ambassador has stated that Washington has "serious concerns" about it.

Previous Mexican governments, according to Lopez Obrador, rigged the energy industry in favor of private capital at the expense of customers and state-run energy businesses.

"I will be pleased to inform her on the reforms if necessary, or if she wishes to know my opinion," the leftist nationalist leader stated.

The Mexican president also expressed gratitude to Granholm for the U.S.' approval of Mexican state oil company (Petroleos Mexicanos) Pemex's acquisition of Royal Dutch Shell's Deer Park refinery in Texas.

Mexico's 'Open Discussion' on Electric Power Reform

On Monday, the debate over Mexico's contentious constitutional reform of the electric energy sector has restarted, with a panel of governors and state leaders launching an open discussion on electric power reform.

The governors' meeting marked the start of President AMLO's second attempt to approve the bill after he failed to gain the necessary approval from the opposition during the previous parliament session.

Because the proposal includes constitutional changes, Morena, the majority party, will need the backing of two-thirds of members present in both chambers of Congress to enact the reform.

The ruling coalition would need the support of 333 legislators if the lower chamber was full. AMLO's Morena party, together with minor party allies, currently has only 279 seats.

"Despite the numbers, there is no doubt that reform can occur," said Valeria Vázquez, partner and Deloitte's energy and resources business leader. Vásquez, on the other hand, believes the reform will be "extremely difficult to negotiate" in its current shape.

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Among other things, the present proposal cancels all current private power generation and sales contracts, which would presumably be renegotiable at a later date.

While the forums ensure that debate will take place this session, Legislators from the three biggest opposition parties - the PAN, PRI, and PRD - have warned that any vote will be postponed until after the June 5 governorship elections.

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Millions in funding slated for Texas bridges, repairs
Samuel King
KSAT-TV
January 14, 2022
https://www.ksat.com/news/local/2022/01/15/millions-in-funding-slated-for-texas-bridges-repairs/

SAN ANTONIO – Texas will receive a half billion dollars to help pay for bridge improvements and repairs, with money coming from the federal infrastructure law. The money is aimed at fixing the bridges most in need of repair.

“It will also modernize bridges to withstand the effects of climate change and to make them safer for all users, including cyclists and pedestrians,” Deputy Federal Highway Administrator Stephanie Pollack said in a statement. “Every state has bridges in poor condition and in need of repair, including bridges with weight restrictions that may force lengthy detours for travelers, school buses, first responders or trucks carrying freight,” she added.

The funding is considered the largest federal investment in bridges since the establishment of the Interstate Highway System in the 1950s. Bexar County has close to a thousand bridges considered in fair condition, according to a database from the Federal Highway Administration. Another seven are considered in poor condition.

At least two of the bridges on the list are slated for repairs in the coming years: I-35 over Eisenhauer Road and Walters Street over the Union Pacific railroad tracks on the East Side.

The Texas Department of Transportation defines bridges in poor condition are “those exhibiting signs of advanced structural deterioration” but not necessarily unsafe.

Texas has more than 800 bridges considered in poor condition and another 26,100 in fair condition.

Have questions about transportation or traffic? Let us know, and your answer may be our next story. Find past answers on our traffic page.

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Mexico labor minister defends Pemex union boss vote despite influence concerns
Reuters
January 14, 2022
https://www.reuters.com/business/energy/mexico-labor-minister-defends-pemex-union-boss-vote-despite-influence-concerns-2022-01-14/

MEXICO CITY, Jan 14 (Reuters) - Mexican Labor Minister Luisa Maria Alcalde on Friday defended an impending vote to elect a new leader of the trade union of state oil company Petroleos Mexicanos (Pemex) over concerns that the influence of a controversial old union boss could linger on.

Politicians, including in the ruling party, have criticized the candidacy of Ricardo Aldana, Pemex treasurer under the longtime union boss Carlos Romero Deschamps, who stood down in 2019 after the president said he was under investigation.

Union officials said at an event broadcast on social media late last year that Aldana would have strong backing in the election, urging Pemex workers to vote for him.

Asked if the administration could be sure Romero Deschamps' would not retain influence at the union, Alcalde said the Jan. 31 vote would be "free, democratic and fair."

"We can't say 'yes' to this one, 'no' to that one, 'this one has certain ties, he has this back story,' it's the workers who will decide," she told a regular news conference.

Officials in 2019 said Romero Deschamps, who has denied wrongdoing, was being investigated on suspicion of conducting operations with funds of illicit origin.

Both Aldana and Romero Deschamps are veteran politicians in the long-ruling Institutional Revolutionary Party (PRI), which President Andres Manuel Lopez Obrador consigned to a historic defeat when he was elected in 2018.

Cecilia Sanchez, a senator with Lopez Obrador's National Regeneration Movement (MORENA) who is also seeking to lead the union, rebuked the labor ministry on Twitter after the news conference and said the old bosses were being left in charge.

Aldana did not immediately respond to a request for comment.

For decades, Pemex has been dogged with accusations that it is a breeding ground for corruption.

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Column: Mexico’s Electricity Reform Would Lead to More, Not Less, Reliance on NatGas Imports
Eduardo Prud’homme
Natural Gas Intelligence
January 14, 2022
https://www.naturalgasintel.com/column-mexicos-electricity-reform-would-lead-to-more-not-less-reliance-on-natgas-imports/

The year 2022 is littered with risk for economic activity in Mexico. The persistence of an inflationary environment, the expectation of meager growth, slowing investment, the continuation of capital flight, tensions between the government and the private sector, amd a treasury increasingly committed to the financial rescue of Petróleos Mexicanos (Pemex) are all depressing to contemplate. However,

President Andrés Manuel López Obrador's popularity is sky-high. This perception of political infallibility is going to fuel his ambition to get his energy reform passed.

Despite not having enough votes in Congress, the first quarter will see the government trying to convince the population that constitutional reform in the electric power sector is needed. They will argue that strengthening the Comisión Federal de Electricidad (CFE) is necessary to achieve fair prices for electricity, and that the limitation of private companies to generate only 46% of electricity will allow the state to guarantee that there is no lack of power in homes.

The Mexican state is already bending over backwards to save state energy firms. According to the annual financing plan prepared by Mexico's Ministry of Finance, CFE's financing needs last year were estimated at approximately $3 billion for the payment of debt and this year the figure is $1 billion. In 2022, Pemex will need more than $10 billion of public financing to stay in operation. From the statist perspective of López Obrador's administration, the complex financial situation of CFE and Pemex is a symptom of the damage that opening up energy to the private sector brought to Mexico. They are merely righting the ship.

The flaw in this diagnosis is that government officials confuse the pair of state-owned companies with the energy industry at large. The current thrust of energy policy is to restore the economic power of Pemex and CFE so that they serve as the engine of development and become an expression of the strength of the government.

CFE's big complaint about the economic dispatch rules is related to the fixed costs that it has to absorb when it shuts down its plants when they are displaced by private generators. The argument goes that CFE is defenseless against the entry of private companies into the sector.

Research shows that things could get worse. According to the World Energy Council (WEC), Mexico's energy performance between 2011 and 2021 improved in important areas. In the field of energy security, there is now greater diversity in generation technologies. In terms of equity, there is better access to electricity, and electricity prices allow for greater affordability. In the sustainability dimension, the contrast with 2011 shows that today carbon emissions associated with electricity generation are lower.

The outstanding negative has to do with Mexico's dependence on imports.

Dependency on imports has actually grown during this administration, while they dropped during the previous one. This shows that the policies aimed at achieving one of the great objectives of the current government – so-called energy sovereignty – have actually worsened Mexico's dependence on imports.

There has also been a setback in environmental performance. The opening of the energy sector in 2013 resulted in greater diversity in the generation matrix, and allowed for a greater use of natural gas in the production of electricity, which means better prices for electricity. The promotion of renewable energy projects with clean energy certificates and special transmission fees helped reduce carbon emissions. But this administration has seen the Energy Ministry end the policy of clean energy certificates. They were seen not as a financing mechanism for wind or solar projects, but rather as a way for private capital to take advantage of CFE's transmission network while stealing market share

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in the generation segment. Things will only get worse if the government is successful in achieving changes to the legal framework.

A simulation exercise of generation plants in Mexico sponsored by the National Renewable Energy Laboratory (NREL) quantifies the potential impacts on the electrical system that López Obrador's reform would cause. Production costs in a reform scenario versus business as usual would grow by between 31.7% and 52.5%. This would mean the government would have to inevitably subsidize CFE's operation if it wanted to keep basic electricity supply rates low.

With market rules that give priority to CFE plants, the use of fuels would change dramatically. Mexico's commitments to the Paris Agreement would be called into question with increases in CO2 emissions, according to the report. The reason for these increases is in the resulting intensive use of fuel oil. If the reform went ahead, the burning of fuel oil by CFE would grow between 823.7% and 1,119.5% compared to the levels typically observed today. However, this is not necessarily at the cost of less natural gas use.

CFE plants that use gas have lower thermal efficiency, which means that each kWh of electricity generated requires more gas. With more CFE plans operating, natural gas consumption could grow between 5.5% and 28.9% under a reform scenario. With these numbers and given zero growth in domestic production, the dependence on natural gas imports would be accentuated. If the most extreme scenario projected by the NREL team materializes, the incremental volumes would mean close to an additional 1 Bcf/d of natural gas would be needed in Mexico's generation segment.

The results of the NREL simulation and the review of the historical behavior of the WEC indicators deserve to be analyzed in a North American regional perspective. Energy policy in Mexico does not necessarily go against the commercial interests of the United States. The prospect of an increase in gas exports for U.S. producers even with a reversal of the open market scheme changes the perception of risk in doing business with Mexico. Emissions reduction commitments would be hit, however, a situation that could generate discomfort within the three countries that make up the United States-Mexico-Canada-Agreement. The strain on Mexican public finances caused by the potential reform could also lead to economic difficulties that would benefit no one.

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Texas Dems work around election integrity law as they mail out "hundreds of thousands" of mail-in ballots
Karen Townsend
Hot Air
January 15, 2022
https://hotair.com/karen-townsend/2022/01/15/texas-dems-work-around-election-integrity-law-as-they-mail-out-hundreds-of-thousands-of-mail-in-ballots-n441724

The Texas Legislature passed SB1 which ushers in election integrity reforms in 2021 and Governor Abbott signed it into law. Texas Democrats now complain that voter suppression is happening in the form of the number of rejections of mail-in ballot applications.

Texas lawmakers would not have had to pass election integrity reforms if the rookie Harris County Clerk, a young and aggressive Democrat, had not decided to use the coronavirus pandemic as an

excuse to create new ways of voting in the 2020 elections. It began when he announced that mail-in ballot applications would be mailed to every registered voter in Harris County – more than 2.4 million – which is against Texas election law. He was quickly stopped by court order. Other actions were taken by his office which had never been done before and was outside of election law, such as twenty-four-hour voting and drive-thru voting, as well as an increase of drop boxes for ballots that were frequently left unattended. Lawmakers in Austin passed legislation that makes election law uniform across the state and prevents local officials from going rogue in pursuit of their political agenda.

That is how we got here. Now that primary elections are coming up in March for the 2022 midterm elections, complaints are being reported of an unprecedented number of mail-in ballot applications being rejected. New voter identification requirements are being blamed. Some of the state's largest counties are rejecting applications due to a failure to meet new requirements, most frequently a mismatch between the requirements and the data the state has on file to verify voters.

Under Texas' new voting law, absentee voters must include their driver's license number or state ID number or, if they don't have one, the last four digits of their Social Security number on their applications. If they don't have those IDs, voters can indicate they have not been issued that identification. Counties must match those numbers against the information in an individual's voter file to approve them for a mail-in ballot.

In Harris County, 208 applications — roughly 16% of the 1,276 applications received so far — have been rejected based on the new rules. That includes 137 applications on which voters had not filled out the new ID requirements and 71 applications that included an ID number that wasn't in the voter's record.

In Travis County, officials said they've rejected about half of the roughly 700 applications they've received so far, with the "vast majority" of rejections based on the new voting law.

In Bexar County, officials have rejected 200 applications on which the ID section was not filled out. Another 125 were rejected because the voter had provided their driver's license number on the application, but that number was not in their voter record.

Texas has a specific list of requirements for who is eligible for mail-in voting. These include anyone over the age of 65, as well as voters who are disabled, voters who will be out of their county of residence during the voting period, or have an illness that prevents voting in person. Texas has never had universal mail-in voting, a top priority for state Democrats at this point. Local officials are not allowed to send out mail-in ballot applications unsolicited. However, county parties and individual groups do send out applications to those over the age of 65 as a part of their get-out-the-vote efforts.

The Texas Democratic Party announced this week that it will "work around" new voting laws and send out hundreds of thousands of vote-by-mail applications to Texans age 65 and older. The move is being touted as sidestepping changes in the law. Apparently, Democrats are fond of workarounds. Remember it was likely a retweet by Biden's Chief of Staff Ron Klain that boasted about using OSHA for vaccine mandates as a workaround that contributed to the Supreme Court striking that down this week.

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A driver's license number or a social security number can be used to fulfill voter id requirements for mail-in voting. However, the state doesn't have both numbers on file for all voters, resulting in some rejections now.

Last summer, the Texas secretary of state's office indicated that 2,045,419 registered voters lacked one of the two numbers in their voter file despite the office's efforts to backfill that information in the state's voter rolls. Another 266,661 voters didn't have either number on file.

Those numbers have since dropped. As of Dec. 20, 702,257 voters had only one number on file, while 106,911 didn't have either, according to updated figures provided by the Texas secretary of state's office.

Meanwhile, 493,823 registered voters didn't have a driver's license on file, which is the first number voters are asked to provide on both applications to register to vote and applications to vote by mail.

Some county election officials are pointing to outdated applications being used as a reason for rejection. These may be coming from campaigns and political parties who don't have the updated applications requiring driver license numbers as identification. There is a way to correct applications provided in the new voting law. County officials provide voters with a rejection notice and information on how to correct it. This process includes a new online ballot tracker. Some officials are getting nervous because the deadline for applications is coming up on February 18. It takes time for local offices to process applications. Some offices are hiring additional people to handle the process.

Requiring voter id is not voter suppression. Democrats use it as an excuse to cry foul while Republicans see it as a common sense way of assuring election integrity. The press is only too happy to run stories using Democrat talking points so expect more of this during the midterm election cycle. The truth is that states like Texas have increased early voting periods. During early voting a voter can cast a ballot at any voting location in their county at their convenience, not only in their precinct as is required on election day. Perhaps Delaware should consider more opportunities for voters, too.

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Jan. 6 was a tragedy. Busting the filibuster would be, too
Mike Pence
Washington Post
January 14, 2022
https://www.washingtonpost.com/opinions/2022/01/14/mike-pence-filibuster-nationalize-elections/

Now that the anniversary of Jan. 6 has come and gone, some of us who lived through that tragic day in 2021 are getting a clearer picture of what was and is at stake. On Jan. 6, an angry mob ransacked the Capitol, largely to try to get Congress and me, as the president of the Senate, to use federal authority to overturn results of the presidential election that had been certified by all 50 states.

Lives were lost and many were injured, but thanks to the selfless and courageous work of law enforcement, the Capitol was secured, and Congress was able to reconvene the very same day and complete its work under the Constitution and laws of the United States.

In the year since that fateful day, states across the country have enacted measures to try to restore confidence in the integrity of our elections while ensuring access to voting for every American. Georgia, Arizona and Texas have led the way with common-sense reforms, such as requiring verifiable identification on absentee ballots and using cameras to record ballot processing.

Despite this steady progress of state-based reforms, now come President Biden and Senate Democrats with plans to use the memory of Jan. 6 to attempt another federal power grab over our state elections and drive a wedge further into our divided nation.

Their plan to end the filibuster to allow Democrats to pass a bill nationalizing our elections would offend the Founders' intention that states conduct elections just as much as what some of our most ardent supporters would have had me do one year ago.

Under the Constitution, elections are largely determined at the state level, not by Congress — a principle I upheld on Jan. 6 without compromise. The only role of Congress with respect to the electoral college is to "open, present and record" votes submitted and certified by the states. No more, no less. The notion that Congress would break the filibuster rule to pass a law equaling a wholesale takeover of elections by the federal government is inconsistent with our nation's history and an affront to our Constitution's structure.

Democrats in Congress don't like the way many states have governed over the past year. In fact, Senate Majority Leader Charles E. Schumer (D-N.Y.) recently compared Republican state officials to "violent insurrectionists" who stormed the Capitol because they had the audacity to pass legislation designed to eliminate voter fraud.

Biden and the Democrats' plan advancing in Congress would massively increase opportunities for election fraud, further erode confidence in our elections and deliver an irreversible victory for the radical left.

The plan would mandate the most questionable and abuse-prone election rules nationwide, while banning common-sense measures to detect, deter and prosecute election fraud.

For example, states would be forced to adopt universal mail-in ballots, to provide same-day voter registration, online voter registration, easier voter registration through motor vehicle department offices and a minimum 15 days of early voting. Duplicate voter registration records would abound, states' voter-ID requirements would be dramatically weakened, and anyone, including undocumented people, who simply signed a sworn written statement claiming to be eligible to vote would be permitted to do so. The opportunities for voter fraud would explode.

States would also be required to count every mail-in vote that arrives up to seven days after Election Day. Ballot harvesting — wherein which paid political operatives collect absentee ballots from places such as nursing homes — would be legal nationwide, exposing our most vulnerable voters to coercion and increasing the risk that their ballots would be tampered with.

Our Founders were deeply suspicious of consolidated power in the nation's capital. They also were rightly concerned with foreign interference if presidential elections were governed by or decided in the capital. Those were among the reasons the constitutional convention settled on state-based elections and limited the role of the federal government in the election of the nation's leaders.

Jan. 6 was a dark day in the history of our nation that was overcome by the courage of our Capitol Hill police and the willingness of the elected representatives of the American people in both parties to keep their oaths and uphold a constitutional framework that has been the bulwark of the freest and most prosperous nation in history.

With this anniversary passed, I call on my former colleagues in the Senate to do as you did before: Uphold the right of states to conduct and certify elections. Reject this latest attempt to give Washington the power to decide how the United States' elections are run. And keep the oath you made before God and the American people to support and defend the Constitution.

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Anchía: When you trash the border, you are trashing Texas
Steve Taylor
Rio Grande Guardian
January 14, 2022
https://riograndeguardian.com/anchia-when-you-trash-the-border-you-are-trashing-texas/?utm_source=rss&utm_medium=rss&utm_campaign=anchia-when-you-trash-the-border-you-are-trashing-texas

EDINBURG, Texas – State Rep. Rafael Anchía says he is offended when politicians from Austin come to the Rio Grande Valley for the sole purpose of taking photo ops on DPS gun boats.

The Dallas lawmaker gave the keynote address at the Hidalgo Tejano Democrats 1st Annual Gala held at the Memorial Event Center in Mission. The group honored ten local VIPs at the event.

"As a Texan I want to say proudly and loudly that I am border proud. I am proud of the border that we have with Mexico. I am proud of the fact that we sit in the middle of a North American continent and that we are an exporting powerhouse, thanks to the work that happens here in the Rio Grande Valley," Anchía said, to great applause.

"While being border proud, it offends me on a regular basis when you have politicians from Austin who come down here for the sole purpose of taking photo ops on DPS gun boats. That, to me, is offensive."

There was more applause.

"They don't want to come down here and talk about our award-winning public schools, not to talk about UTRGV, not to talk about our great hospitals, but to talk about fear, criminality, violence, and essentially to trash the RGV. That should be offensive to you as it is to me."

Anchía, a former chairman of the international relations committee in the Texas House, singled out Gov. Greg Abbott for criticism.

"We need leaders who celebrate the border instead of comparing the RGV, as the governor did a couple of years ago, to a Third World country. I don't know if you remember that, it was in the 2014

campaign. We need leaders who will engage with the people, come down here not for a photo-op but to know the people, understand the people."

Anchía said that when he was first elected he came to the Valley and met with the then mayor of McAllen, Richard Cortez. Cortez, now the Hidalgo County Judge, was in the audience. Cortez picked the "Tejano Pillar Award" from the Tejano Democrats.

"Mayor Cortez told me of his dreams and aspirations for this community. And he told me, and I didn't understand it at the time. He said, soon, we are going to have a skyline here in McAllen. Understanding those hopes, dreams and aspirations, is what elected officials who ostensibly represent Texas should do," Anchía said.

Anchía said that when you know the locals you do not do "stupid things" like putting out a tweet saying Zapata County is in the Rio Grande Valley. That drew laughs from the audience.

"I remember the heat he (Abbott) got for that and it was well deserved. When you know the people, when you know people's hopes, dreams and aspirations, you don't say silly things."

Anchía won loud applause when he said: "I want to make a point that when you trash the border, you are trashing Texas. And it you are Texas proud, you must be border proud."

In addition to Cortez, another recipient of a Tejano Democrats award was state Rep. Armando 'Mando' Martinez of Weslaco.

Praising Martinez's leadership, Anchía said of Martinez: "It is not everybody in Austin that is willing to stand up for their community. It is not everybody in Austin who is willing to speak truth to power. And it is not everybody in Austin that can be counted on when times get tough."

Education
Anchía told how both of his parents came to the United States as immigrants. He said his mother came from Mexico in the mid-1950s at a time when her country was dominated by one party rule. Anchía said the PRI "won" the presidency for 70-plus consecutive years. Anchía said his mother taught bilingual education thanks to the education she received at a community college. He said but for that community college education the family would have had real financial hardship.

Anchía said his father came from the Basque region of Spain, a country which, at the time, was ruled by the Franco military dictatorship. He said neither of his parents came to the U.S. just for economic reasons. He said they came because of "higher ideals."

Anchía said he has benefited from the "infrastructure of opportunity." He said his father often says that the United States is the only country in the world where one can, in one generation, go from being a sheep herder or a goat herder to a lawyer or politician.

He added that it should not matter what country an immigrant comes from or what zip code a citizen is born in. "As proud Texans we must fight to keep that infrastructure of opportunity in place."

Voting rights and faith

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Anchía also spoke about voting rights and faith. He said the three things Texans need, in order to get from where they are to where they want to be, are faith, education and the right to vote. He said they were part of a three legged stool.

“When you don’t have one of those things, when your right to vote is adversely impacted or diminished, when you don’t have that infrastructure opportunity that you need to get ahead, and when you don’t have that faith, you are out of balance. And our state currently is out of balance, unfortunately, under the current leadership.”

State Sen. Eddie Lucio was another recipient of a Tejano Democrats award. In his remarks, Lucio referenced his faith. Anchía later praised Lucio for his faith and spoke about a recent study of the New Testament. “They cut out every passage in the New Testament that talks about helping the poor. And it rendered the New Testament incomprehensible because every fourth verse in the New Testament directs us and commands us to help the poor, to help the less fortunate,” Anchía said.

Anchía said he had met with a prominent Valley businessman for lunch earlier in the day. He said the businessman asked if Gov. Abbott could be defeated in this year’s gubernatorial election. Anchía said, not only can he beaten, he has to be beaten.

Anchía said the trend lines are moving in the Democrats’ direction. He said Romney defeated Obama in Texas by 16 percent. He said Trump beat Clinton in Texas by nine points and that Trump beat Biden in Texas by five points.

“More than Ohio, Indiana, Missouri, we are the new battleground state and the trend line is moving in our direction,” Anchía said.

Anchía said that in the 2020 presidential election, one million more Democrats voted in Texas than in 2016. He said 3.5 million new voters have been registered since 2018.

The worst kept political secret in Austin is that Gov. Abbott wants to run for president of the United States, Anchía said. He said this ambition has led to Abbott making mistakes as governor. He cited the state’s response to the coronavirus pandemic and the failure of the electric grid during last year’s big freeze.

Anchía said Texans do not want big government or small government. “They want component government, they want government that works, government that is responsive, government that is effective,” he said.

Anchía noted that if Texas was a country it would have the ninth largest economy in the world.

“We are playing small ball. We are talking about trans kids playing sports, we are the ninth largest economy in the world. Larger than Mexico, Russia or South Korea. We are a powerhouse, but we are not acting that way.”

Anchía said if Democrats can break through and win one statewide campaign in Texas the border bashing would stop.

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“People who come down here, hop in that gun boat and trash the Valley. The minute we punch one of these bullies in the nose, metaphorically, electorally, the attacks on our community will stop. Just one, just one breakthrough. Could be attorney general, could be lieutenant governor, could be governor, should be all of them. The minute that happens, this stops.”

Cortez remarks

Later, when Judge Cortez made his remarks from the podium, he referenced Anchía’s speech.

“What can we say about our guest speaker, I mean, wow, that is what we are about,” Cortez said.

Cortez said he was “very proud” of the work the county administration had done in recent times. He praised the partnerships the county had forged with local cities and schools. “We have been through some tough times. We have proven together, over and over, that when we do get together, great things happen.”

Cortez said local residents will see a better quality of life when new investment is brought into the area.

“We cannot be a good government if we do not provide excellent services. Forty percent in poverty, that is unacceptable. We have to reduce poverty. We have to build partnerships. I am not here to put people down. I am here to raise people up,” he said.

Tejano Democrats awards
The ten awards given out by the Hidalgo Tejano Democrats were:

Tejano Lifetime Achievement Award: State Sen. Eddie Lucio, Jr.

Tejano Man of the Year Award: Hidalgo County DA Ricardo Rodriguez

Tejano Woman of the Year Award: 13th Court of Appeals Justice Leticia Hinojosa

Tejano Humanitarian Award: Juanita Valdez-Cox of La Unión del Pueblo

Tejano Star Award: Hidalgo County Clerk Arturo Guajardo

Tejano Pillar Award: Hidalgo County Judge Richard Cortez

Hidalgo Gavel Award: State District Judge Bobby Flores

Tejano Gavel Award: Hidalgo County JP Jaime Jerry Muñoz

Tejano Service Award: State Rep. Eddie Lucio, III

Tejano Eagle Award: State Rep. Armando Martinez

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As Abbott Celebrates MLK Day, Voter Suppression Agenda Kicks Into Full Gear
Fernando Ramirez
Texas Signal
January 17, 2022
https://texassignal.com/as-abbott-celebrates-mlk-day-voter-suppression-agenda-kicks-into-full-gear/

On Monday, Gov. Greg Abbott celebrated Martin Luther King Jr. Day by sharing a famous quote from the late civil rights leader and minister: “The ultimate measure of a man is not where he stands in moments of comfort and convenience, but where he stands at times of challenge and controversy.”

The quote, now engraved in Washington D.C.’s MLK Memorial, comes from a sermon King delivered in 1959. By then, King was more than familiar with challenging times and the risks of advocating for civil rights in Jim Crow America.

Three years earlier his home in Montgomery, Alabama had been bombed with dynamite while his wife and newborn daughter were still inside. His family miraculously uninjured, King returned home to an upset crowd of supporters who he told to go home and not worry because, “we are not hurt and remember that if anything happens to me, there will be others to take my place.”

If Abbott genuinely wanted to honor King’s legacy, he would gather the legislature and scrap Senate Bill 1, a sweeping Trump-brained law that makes it more difficult to access the ballot box.

Just about every civil rights organization in Texas is suing the law, which went into effect in December. Already, the restrictive voting law has begun impacting Texas mail ballot applications, just one of the ways SB 1 has begun to disenfranchise voters.

On Thursday, the Travis County Clerk’s Office announced it had rejected about 50 percent of mail ballot applications. The office attributed the increased rate of rejections to Senate Bill 1, which requires mail ballot applicants to include either a Driver’s License number or last four digits of their Social Security number.

In Bexar County, election officials are rejecting mail-in ballot applications at a similar rate under the strict new law, according to the San Antonio Report. About half of the mail ballots were rejected on the first day officials began accepting them.

In Harris County, mail ballot applications were rejected roughly 16 percent of the time under the new rules, according to the Texas Tribune.

(Texans can check the status of their mail ballot application at the Texas Secretary of State’s website.)

The Department of Justice has filed two federal lawsuits against the law for violating the Voting Rights Act. The Justice Department is arguing that the new law adds barriers to voting and disenfranchises Texans with disabilities, the elderly and those with limited English proficiency.

At least 18 other states joined Texas in passing voting restrictions after the 2020 presidential election, led by Georgia, where the MLK-founded Southern Christian Leadership Conference has joined a legal fight against the state’s own restrictive voting law.

In Congress, Senate Majority Leader Chuck Schumer has said Democrats will vote on two voting rights bills sometime this week. Their future is uncertain with two key senators still opposing a carve out to allow for a simple majority vote on the bills.

The push for federal voting rights legislation comes days after President Biden delivered a speech on the issue in Atlanta, Georgia where the Republican-led legislature has also made it more difficult to vote.

“Jim Crow 2.0 is about two insidious things: voter suppression and election subversion,” Biden said at the time. “It’s no longer about who gets to vote; it’s about making it harder to vote. It’s about who gets to count the vote and whether your vote counts at all.”

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New Texas election law already has made a mess of mail voting
Gilbert Garcia
San Antonio Express-News
January 15, 2022
https://www.expressnews.com/news/news_columnists/gilbert_garcia/article/Garcia-New-Texas-election-law-already-has-made-a-16777548.php

If you tried to create the most idiotic law your mind could conjure, it would be hard to match the stupidity of the mail ballot application provision of this state’s new election law.

According to Senate Bill 1, a Republican-driven set of voting restrictions signed into law four months ago by Gov. Greg Abbott, it is now a felony for an election official in Texas to send an unsolicited mail ballot application to a voter.

Keep in mind that county elections office websites across the state provide a link to the mail ballot application form.

The Texas secretary of state’s office also provides the application form on its website.

Political candidates and political parties in Texas are perfectly free to boost their cause by sending out unsolicited mail ballot applications to voters. They do it on the regular.

Think about it: Your state and county election officials are allowed to make mail ballot applications available on their webpages, enabling you to print out the form, fill it out and send it in. But they can’t mail a physical copy of the form to you unless you ask for it.

If you have five people in your household who want to vote by mail, you can print out five copies from the Bexar County Elections Department website and have each of those five people fill out the application.

But the department can’t send you those five applications, even if you call to request them, unless each of those five people separately informs the department they want a copy of the form.

Why is it acceptable for Greg Abbott to send me an unsolicited mail ballot application, but a criminal act for an election official to do it?

Even if you buy into the notion that mail voting is rife with fraud, it's important to consider that we're not talking about mail ballots. We're just talking about applications for mail ballots.

People have to fill out those applications and get them approved by county election officials in order to receive a mail ballot. How are you preventing fraud by hindering access to application forms?

If you're looking for logic in this provision of SB1, you won't find it by thinking in terms of justice or election integrity. You'll find it only by dialing up the logic of the mendacious political hack.

By making it harder for people to apply for mail ballots, Texas Republicans are surely causing headaches for some of their own voters.

After all, GOP voters tend to skew older than the rest of the electorate, and one of the state's five accepted excuses for voting by mail is being at least 65 years old.

GOP lawmakers, however, took the macro rather than the micro view on mail voting with SB1. They concluded that Democrats vote by mail in bigger numbers and that anything that could be used to tamp down those numbers would be beneficial to the Republican cause.

They were also reacting to a 2020 election cycle in which some county officials responded to the COVID-19 pandemic — and the health risks associated with big crowds lining up to vote in person — by encouraging mail voting.

Harris County attempted to send out unsolicited mail ballot applications to all of its registered voters, while Bexar County — prompted by the efforts of County Commissioner Justin Rodriguez — mailed applications to voters 65 and older.

This past week, we got an early taste of the damage that SB1 will do to the Texas election system.

Jacque Callanen, the elections administrator for Bexar County, addressed county commissioners Tuesday and described the new state election provisions as "ridiculous."

Callanen said the Elections Department phone system receives 50 to 100 calls a night requesting mail ballot applications.

"Right now, the law only permits us to send one," she said. "So we'll have someone say, 'Would you send my husband and myself one?'

"Well, if it's the female voice, we can only send it to her. We have to contact her and say, 'We have to hear it from him before we can release it.'"

Callanen said the department received 80 mail ballot applications Monday but had to reject 42 of them because of SB1's identification requirements.

The law stipulates that applicants for mail ballots must include a driver's license/state ID number or the last four digits of their Social Security number.

If the number they use for the application doesn't match the number they provided on their voter registration form, the application will be rejected.

The Travis County Clerk's Office said that as of Thursday, it had rejected "about 50 percent" of mail ballot applications for the state's March 1 primary elections.

If you believe that voting should be as smooth, fair and accessible as possible, this madness is thoroughly depressing.

If you believe the election process should come with numerous roadblocks and impediments to suppress turnout, create confusion and disenfranchise people, you got what you wanted.

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Who's afraid of the big, bad ballot drop box?
John Young
Austin American-Statesman
January 15, 2022
https://www.statesman.com/story/opinion/columns/2022/01/15/young-whos-afraid-big-bad-ballot-drop-box/9160085002/

Joe Biden needs a traveling prop. Every time he speaks, it should be at his side. It should be the symbol of the next election and his campaign for re-election.

Biden's partner at each podium should be a ballot box – a mail-in ballot drop box, to be exact – a vessel of convenience for voters, a symbol of leaders who value them.

The prop would serve two purposes – to encourage Americans to vote, and to show them that these simple receptacles aren't dangerous at all.

This is necessary, because Republican leaders are frightened to death by them.

In case you haven't noticed, Republican leaders want fewer people voting. If that's news to you, let's have Sen. Rand Paul of Kentucky explain it.

"They're mailing out a solicitation to vote by mail," he said in advance of the 2020 Georgia Senate run-offs – where, sure enough, high turnout yanked Senate control from his party.

"I'm very, very concerned that if you solicit votes from typically non-voters, that you will affect and change the outcome."

What Paul's saying is, we can't have people at the polls who aren't "the regulars." Heaven forbid that we would open this process up to all manner of rabble . . . er, people. The invite should be reserved for Rand Paul's friends.

“I’m very, very concerned that if you solicit votes from typically non-voters, that you will affect and change the outcome.”

What Paul's saying is, we can’t have people at the polls who aren’t “the regulars.” Heaven forbid that we would open this process up to all manner of rabble . . . er, people. The invite should be reserved for Rand Paul’s friends.

Biden’s speech on the year anniversary of the Jan. 6 terrorist attack hit on so many important points. Principally it hit on the self-evident fact that his predecessor, lacking any other title, is drum major to a big parade of lies.

More importantly, Biden hit on the biggest issue corresponding to the Big Lie to which Republican leaders pledge allegiance – the undermining of the democratic process.

“Right now, in state after state, new laws are being written – not to protect the vote, but to deny it; not only to suppress the vote, but to subvert it; not to strengthen or protect our democracy, but because the former president lost.

“Instead of looking at the election results from 2020 and saying they need new ideas or better ideas to win more voters, the former president and his supporters have decided the only way for them to win is to suppress your vote and subvert our elections.”

Parroting the lies of a party leader who could face criminal charges for his bid to overthrow a free and fair election, GOP leaders have taken several tacks to tamp down voter participation. One of the most odious has been to curb the use of ballot drop boxes, and of course voting by mail.

I use both every election. My state of Colorado has universal mail voting along with measures like motor-voter and same-day registration.

I didn’t need a pandemic to convince me that the best way to vote would be to fill out my mail-in ballot and walk it to a conveniently located ballot drop box. No lines, no waiting, no stamp, no dependence on the postal service. If I needed any other reason, COVID-19 sealed the deal.

The ballot drop box is the symbol of a system that values my vote.

The thing is, it’s just a box – metal, with the county’s name on it and election information. It’s secure. Can’t get your paws in it. Can’t “steal” the election. A box.

But look at what Republicans are doing. When they can, they are limiting the availability – and the convenience – of this method.

The Republican president of the Georgia Senate has authored a bill to prohibit ballot drop boxes. A similar bill has been introduced in Wisconsin.

Florida Gov. Ron DeSantis calls them “a big problem.” Um, how so? Is it that “more voters” thing that scares Sen. Paul?

As the 2020 election approached, Texas looked to see heavy use of ballot drop boxes, permitted by the appointed Texas secretary of state. Harris County had 12 of them. Travis County had four.

Then, before the elections, Gov. Greg Abbott ordered that no county have more than one. That's one in Loving County, population 64, and one in Harris County, population 4.7 million. The Texas Supreme Court upheld his order with three days left of early voting. And the appointed, never-confirmed secretary of state left office in May.

All of which is why Joe Biden should campaign alongside a ballot drop box.

It is the symbol of the threat to democracy that Biden's predecessor embodies, him and the Big Lie. It is the remedy to leaders deathly afraid rabble might show up on Election Day.

Longtime newspaperman John Young lives in Colorado.

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From: Sam Taylor
Sent: Wednesday, February 2, 2022 8:11 AM
Subject: SOS Morning News Clips 2/2/22

Sensitivity: Personal

Texas Secretary of State
Morning News Clips
February 2, 2022

Texas secretary of state sued over secrecy of noncitizen voter purge program, *Dallas Morning News*, February 1, 2022

Dan Patrick sends vote by mail applications but helped ban practice for election officials, *Fort Worth Star-Telegram*, February 1, 2022

Federal judges won't halt Texas primary in state Senate district being challenged for alleged discrimination, *Texas Tribune*, February 1, 2022

County provides guidelines for voter registration cards, *Waxahachie Daily Light*, February 1, 2022

Taylor County commissioners approve surveillance cameras for elections, *Abilene Reporter-News*, February 1, 2022

Voter registration cards in the mail for Hidalgo County residents, *MyRGV News*, February 1, 2022

'That was 46 years ago' | Fort Bend County woman hits roadblocks on path for mail-in ballot, *KHOU-TV*, February 1, 2022

County commissioners remove Brownsville Events Center as early voting location, *ValleyCentral*, February 2, 2022

Report: No Texas public libraries were compliant with federal, state voter registration laws in 2020, *KERA News*, February 1, 2022

New Texas Elections Law Already Causing Problems for Voters, *Bipartisan Policy Center*, February 1, 2022

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Trump's Comments Fuel Bipartisan Effort to Clarify Role of Vice President in Elections, *Wall Street Journal*, February 1, 2022

Timing of FBI raid on Henry Cuellar's home so close to election raises questions, *Texas Tribune*, February 1, 2022

From Coast to Coast, Supply Chains Get Off to a Rough Start to 2022, *Bloomberg*, February 1, 2022

Border enforcement actions increased 300% in 2021, *The Center Square*, February 1, 2022

OPINION: State should prioritize voter registration forms, *Beaumont Enterprise*, February 1, 2022

Texas secretary of state sued over secrecy of noncitizen voter purge program
Philip Jankowski
Dallas Morning News
February 1, 2022
https://www.dallasnews.com/news/politics/2022/02/01/texas-secretary-of-state-sued-over-secrecy-of-noncitizen-voter-purge-program/

AUSTIN — A group of civil rights organizations has sued the Texas secretary of state's office for refusing to turn over documents related to a so-called voter purge program that has already canceled the voter registrations of nearly 1,200 Dallas County residents.

The American Civil Liberties Union Foundation of Texas and the Mexican American Legal Defense and Education Fund are the lead plaintiffs in the suit against Secretary of State John B. Scott. The suit alleges that Scott violated the National Voter Registration Act by not providing information about the latest effort to purge noncitizens from voting rolls. The program has identified 11,197 registered voters as potential noncitizens.

The Dallas Morning News has also requested information under the Texas Public Information Act about the program and the individuals identified by Scott's office. The office has indicated those records are protected from disclosure to the public and has asked the Texas Attorney General's office to decide whether they can be withheld.

The secretary of state's office did not immediately respond to a request for comment.

According to the suit, 2,327 voters have had their registration canceled under the program, of which 278 were confirmed as non-U.S. citizens.

The latest effort to uncover noncitizen voters in Texas was ordered under new voting laws approved by the Texas Legislature in 2021. It is another attempt after a similar program fell flat in 2019 after it was found that the office was relying on records that were not up to date and would have canceled the voter registrations of many Texans who registered to vote after becoming naturalized citizens.

It was found that nearly 60,000 legal Texas voters could have had their voter registration canceled under the program. The fallout led to the resignation of then-Secretary of State David Whitley and triggered a lawsuit from several of the organizations involved in this latest suit.

Under a settlement agreement, the secretary of state's office was forced to notify the ACLU and MALDEF of the creation of the new program. Those organizations requested information about the programs in August, citing in their request a provision of the National Voting Registration Act that requires states to disclose "records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters."

They were later notified that the secretary of state's office was treating their request as one made under the Texas Public Information Act and that they were seeking to withhold the information under Texas' local government code.

They are asking the court to declare Scott's office in violation of the National Voting Registration Act and to provide the requested documents related to the noncitizen voter purge program.

The suit is the latest of several that have been filed against the state and Texas agencies related to elections. The Department of Justice is seeking to have Texas' recently implemented voting law Senate Bill 1 overturned over allegations that it targets minority voters and discriminates against the disabled.

The League of Women Voters of Texas has also threatened legal action against the Scott's office for not providing the organization voter registration forms that are customarily provided to the organization for voter registration efforts at naturalization ceremonies.

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Dan Patrick sends vote by mail applications but helped ban practice for election officials
Eleanor Dearman
Fort Worth Star-Telegram
February 1, 2022
https://www.star-telegram.com/news/politics-government/state-politics/article257897938.html

A top Texas official who championed a bill making it a crime for public officials to send out unsolicited vote by mail applications is doing just that ahead of the March primary election. An unsolicited letter that bears Lt. Gov. Dan Patrick's official seal and includes an application to vote by mail was recently received by an Edgecliff Village resident. Senate Bill 1, an omnibus election law passed last year, prohibits election officials from sending applications to voters who didn't request one, but allows candidates and political parties to send the forms. Supporters of the bill have said it was needed to bolster election integrity, though opponents say the law creates barriers to the polls. There's been no evidence of widespread voter fraud in the 2020 general election.

"Everyone age 65 and older has earned the right to vote by mail," the letter reads. "As Republicans, we have fought to make it easier to vote while protecting election integrity, so we need to make sure we increase our turnout by taking full advantage of this convenient and secure voting option." The

letter later continues, “Democrats are bragging again that they are going to turn Texas blue, and I’m not about to let that happen!”

In Texas, voters can cast their ballots by mail if they are 65 or older, disabled or sick, expected to give birth around the election, expected to be gone from the county or are in jail but otherwise eligible. The letter touts Patrick and the Texas Senate’s work during the legislative session on issues such as “election integrity reform,” border security, education, health care and the power grid. It also notes that Patrick has endorsed State Rep. Phil King in his bid for Texas Senate. King is running in Senate District 10 which, after the latest redistricting cycle, includes parts of Tarrant and Johnson counties and all of Johnson, Palo Pinto, Stephens, Shackelford, Callahan and Brown counties.

The letter encourages recipients to complete their application so “we can elect these strong leaders and crush Democrats in 2022!” “We must stop the destructive policies of the Biden Administration — open borders, anti-life, anti-Second Amendment and the spending of trillions of dollars that will raise your taxes,” the letter reads. The new Texas election law states that it’s a state jail felony for “a public official or election official” to solicit “the submission of an application to vote by mail from a person who did not request an application” or “distribute an application to vote by mail to a person who did not request the application.”

However, the law specifies that the law doesn’t apply to officials acting in their “capacity as a candidate for a public elective office.”

Patrick’s office and campaign did not return requests for comment Monday. An address on the letter’s envelope is for Blakemore & Associates, which does campaign consulting for Patrick.

He was a vocal supporter of the election bill signed into law in September and has pushed back against the expansion of voting by mail. In May 2020, he said expanding legibility to include people under the age of 65 amid the pandemic would lead to voter fraud.

University of Houston political science professor Brandon Rottinghaus said the design of the letter would appear to most as an official letter from the Texas lieutenant governor.

“The mingling of campaign and official duties are often very blurry on this mailer,” he said in a text. Rottinghaus added, “The irony is that the state’s new voting laws have made voting by mail harder but candidates continue to encourage their partisans to vote this way.”

U.S. Rep. Dan Crenshaw, R-Houston, was criticized last week for sending applications to voters 65 and older, according to The Texas Tribune. The practice is not uncommon for candidates and political parties.

“That was a state Legislature decision. …” Justin Discigil, Crenshaw’s campaign spokesperson, told the news outlet. “Dan did not write the bill.”

The Texas Democratic Party in January announced it was sending “hundreds of thousands” of vote by mail applications to Texans 65 and older.

“We are doing what the State of Texas isn’t: we are making voting as easy as possible,” Texas Democratic Party Voter Protection Director Rose Clouston said in a statement at the time. “Our goal

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is to make sure all eligible Texans are given the opportunity to cast their vote." A spokesperson for the Texas Ethics Commission said it does not comment on any set of facts that may come before the commission.

Since the law went into effect, there have been reports of mail-in ballots being rejected over missing driver's license numbers or Social Security digits, including in Tarrant County. The new law requires voters to include their driver's license number, last four digits of their Social Security number or a statement saying they can't provide either number on their application.

The number is required to match the number used when registering to vote. President of the League of Women Voters of Texas Grace Chimene said this election is confusing in light of the new election law.

The group recently threatened to sue the state if it wasn't provided more voter registration forms as supply chain issues limit the availability of paper, according to The Austin American Statesman. "Perhaps even the lieutenant governor can be confused about the new election law," she said.

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Federal judges won't halt Texas primary in state Senate district being challenged for alleged discrimination
Alexa Ura
Texas Tribune
February 1, 2022
https://www.texastribune.org/2022/02/01/texas-redistricting-lawsuit-primary/

A federal three-judge panel in El Paso on Tuesday denied a request by Tarrant County residents to block a reconfigured state Senate district from being used in the upcoming March primary election while they pursue a lawsuit arguing that Texas lawmakers intentionally discriminated against voters of color when they redrew its boundaries.

The legal challenge to Senate District 10 in the Fort Worth area offered the only avenue to alter the state political maps drawn last year by the Legislature before the primary election. The Republican-controlled Legislature used the once-a-decade redistricting process to draw maps solidifying the GOP's political dominance while weakening the influence of voters of color.

Without a successful appeal to the U.S. Supreme Court, the maps will remain in place until later this year, when the panel is expected to hold a trial to hear the large collection of challenges to the new maps for the state House and Senate, the State Board of Education and the state's Congressional seats.

The plaintiffs — including Democratic state Sen. Beverly Powell, who represents SD-10 in its previous configuration — and attorneys for the state faced off in an El Paso courtroom last week during a four-day hearing before the three-judge panel. The plaintiffs were asking for a temporary injunction blocking the primary using the redrawn SD-10.

Local elected leaders took the stand, trying to convince the court that using the Legislature's map would undermine the voices of Black and Hispanic voters by cracking apart the voting blocs that existed in the previous SD-10 and sinking them into districts with majority-white electorates.

Under the GOP map, some Black and Hispanic populations previously in District 10 were split into two other districts. The Black and Hispanic voters remaining in the newly drawn District 10, in urban areas of south Fort Worth, were lumped in with several rural, mostly white counties to the south and west, driving up the district's population of white eligible voters while diminishing the number of voters of color.

The new map "would keep African American and Hispanic voters from ever being able to elect their candidate of choice," Tarrant County Commissioner Roy Brooks, a plaintiff in the case, told the court.

Meanwhile, the state argued that the reconfiguration of SD-10 was motivated by partisanship, not race, and the plaintiffs were unable to prove that race was the predominant factor motivating the Legislature's action. The chamber's chief map-drawer, Sen. Joan Huffman, R-Houston, said throughout the redistricting process that the maps were drawn "race-blind" but were presented to legal counsel who cleared them as compliant with federal law meant to protect voters of color from discrimination.

She has repeatedly declined to disclose how they reached that conclusion, though. In a deposition for the SD-10 challenge, Huffman invoked legislative privilege to shield herself from answering questions about her considerations while redrawing the district.

The redrawn SD-10 will offer Republicans an easier bid to pick up another seat in the Republican-controlled chamber following a series of elections in which the Senate district flipped from Republican to Democratic control.

The state also argued it was too late to make changes for the March 1 primary, for which mail-in ballots have already started going out. In-person early voting begins Feb. 14.

The three-judge panel did not specify its reasons for siding with the state in its Tuesday order, saying those would be contained in a forthcoming opinion. The panel did note the state's argument that an order to block the use of the redrawn SD-10 so close to the primary election would "fly in the face" of the Supreme Court's previous warnings that lower courts should not make changes "on the eve of an election."

The challenge to SD-10 is just one of several federal lawsuits challenging the maps based on allegations that lawmakers discriminated — in some cases intentionally — against voters of color by diminishing the power of their votes.

The collection of individual voters and organizations representing voters of color that sued the state are joined in their challenge to the maps by the Biden administration, which last year jumped into what's expected to be a protracted fight over the political boundaries the state will use for elections to come.

The cases are being heard by federal district judges David Guaderrama and Jeffrey Brown and federal appellate judge Jerry Smith from the 5th U.S. Circuit Court of Appeals. Guaderrama is an

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Barack Obama appointee while Brown is a Donald Trump appointee. Smith was appointed by Ronald Reagan.

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County provides guidelines for voter registration cards
Waxahachie Daily Light
February 1, 2022
https://www.waxahachietx.com/story/news/local/2022/02/01/county-provides-guidelines-voter-registration-cards/9298684002/

The Ellis County Elections Department has mailed the new voter registration certificates to all active Ellis County registered voters. The certificates will be valid from Jan. 1, 2022 through Dec. 31, 2023.

Once received, look over your personal information and the districts assigned to your residence address. If you find that you must make corrections, you may do so in one of the following ways:

*Make changes on the back of your voter card, sign and mail back to the voter registrar. A new certificate will be mailed to you. Call the elections office within 30 days if you have not received an updated certificate.

*If you have changed your name, moved or changed apartments within the same county in which you are currently registered, go to https://txapps.texas.gov/tolapp/sos/SOSACManager to change your name or address online.

*If you are new to Ellis County and need to register to vote, go to http://co.ellis.tx.us/DocumentCenter/View/5807 for a voter registration application.

*If you have moved outside of Ellis County, you must re-register in your new county by completing a voter registration application. Go to https://webservices.sos.state.tx.us/vrapp/index.asp. Mail your completed application to your new local county voter registrar.

*When you apply for or change your Texas driver's license in-person or online at DPS, you can also change your voter information.

Voters who are placed on the "suspense list" are subject to having their voter registration cancelled if their records are not updated within two federal general elections. Suspense voters will not receive a new voter registration card until their information is updated to an active status.

If you have not received a 2022 Voter Registration Certificate, call 972-825-5195 ext. 2.

REMINDER: Keep your certificate, which states your precinct number and the districts you are eligible to vote on. You do not need to have your voter registration card in order to vote in person. However, you will need to have an acceptable form of photo identification or supporting documentation. For more information go to http://www.votetexas.gov/register-to-vote/need-id.html. You can vote at any vote center polling location within Ellis County during the early voting period or on Election Day.

“Return Service Requested” is listed for the postal service when certificate is undeliverable. Only return the certificate to the Elections Department for the following reasons: If voter no longer resides at the listed residence address, or if you have a name/address correction, then sign the back of the card and include any changes. Instructions are listed on the back of the certificate.

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Taylor County commissioners approve surveillance cameras for elections
Brian Bethel
Abilene Reporter-News
February 1, 2022
https://www.reporternews.com/story/news/2022/02/01/taylor-county-commissioners-approve-surveillance-cameras-elections/9303278002/

Taylor County commissioners approved purchasing video surveillance equipment for elections to comply with a provision in the election code for counties with populations of 100,000 or more.

The provision, Senate Bill 1, passed the second called session of the 87th Legislature. It became effective Dec. 2.

Counties with a population of 100,000 or more must implement a video surveillance system that retains a record of all areas containing voted ballots.

Video from the system must be made available to the public by a livestream.

The video is considered an election record and must be maintained until the end of a calendar year in which an election is held, or until an election contest filed in a county has been resolved, whichever is later.

There is no funding from the state attached to the mandate, county officials said.

Strategic locations

Freda Ragan, the county's elections administrator, told commissioners that video surveillance is required in five areas in her office:

► The area where the early voting ballot board meets to qualify and process mail ballots.

► The area where tabulation occurs.

► The area where the central counting station is set up.

► The area where all mail ballots are stored.

► The hallway providing access to those areas so movement of the ballots can be observed.

Clear goals

To comply with the changes will require multiple steps through the election process, Ragan said.

"What we have to do is have a live stream available of voted ballots," she said.

Each time the county's ballot board meets, the process must be livestreamed, Ragan said.

"Basically, it's just going to be a video of them qualifying and processing and preparing the mail ballots for counting," she said.

The vault where ballots are stored also will be livestreamed.

"Then on election night, when our office becomes central count, when the election judges are bringing in all of the equipment and the controllers, we have to have a video camera in that room live streaming us receiving that that equipment," Ragan.

The drive that contains the voted ballots will be removed and taken across to a tabulation room.

"We have to have a live stream camera in there ... as we're tabulating," she said. "There'll be a link available on our website. If someone wanted to, they can click on that link and they can watch that live process."

Creating a solution

Rebecca Eidson, the county's information technology director, said the video will be stored locally.

"We don't anticipate having to add more storage, but we will be monitoring this as we go through the upcoming primary election," she said.

Eidson said the county was fortunate to have spare cameras so it could be compliant with the code.

The cost to meet the requirements, so far, is $3,129, Eidson told commissioners.

Cameras are one of many things caught up in the current supply chain snarl, Eidson said in an email, and the county plans to order more, including for voting needs.

In July, Ragan told commissioners the county's voting system needs to be updated by September 2026 to an "auditable" system that produces a paper trail for ballots in response to a law signed by Gov. Greg Abbott.

The county updated its voting machines in 2019.

"When we do make the conversion to the paper system, I will have to have a larger storage room," Ragan said. "And so, we will have to have more cameras in the future, or move cameras."

Question of integrity

Ragan said that election integrity has been an issue "for many, many years," though the focus has grown due to the "circumstances" of recent years.

"All we can do is everything that we can do to assure the voters," she said. "Everything that we're doing is by the letter of the law."

Ragan said she believed legislators made the changes to prove to voters Texas elections have integrity, though she called it a "sad thing" such lengths were required.

"But that is where we're at," she said. "... And that's what we're having to do. The only thing that I don't agree with is the cost and the burden that it's putting on the counties."

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Voter registration cards in the mail for Hidalgo County residents
MyRGV News
February 1, 2022
https://myrgv.com/local-news/elections/2022/02/01/voter-registration-cards-in-the-mail-for-hidalgo-county-residents/

The Hidalgo County Elections Department is urging residents to keep an eye out for their new voter registration cards, which were mailed out last week.

A department news release says over 382,000 of the blue and white voter registration certificates are in the mail and that they should be used in all upcoming elections through the end of 2023.

Residents who don't receive their certificate by Feb. 3 are asked to contact the elections department, according to the release.

"Although voters are only required to present an eligible photo identification when voting, using their voter registration certificate along with their acceptable form of identification assures a smooth and quick voting experience at the polls," Elections Administrator Yvonne Ramón wrote.

Anyone who receives a certificate for a voter who no longer resides at an address or has died is asked to return those certificates to the elections office by explaining what happened to the person on the back and mailing or delivering the card to the elections office.

Residents are also asked to review information on the certificates for accuracy.

"These certificates have the voter's updated voting information which includes the voting precinct in which they reside," Ramón wrote. "This voting precinct identifies all jurisdictions in which the voter votes and will include any changes that may have taken place due to redistricting."

The deadline to register to vote was Monday.

The elections office is at 213 S. Closner Blvd. in Edinburg and can be contacted at (956) 318-2570.

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'That was 46 years ago' | Fort Bend County woman hits roadblocks on path for mail-in ballot

Matt Dougherty
KHOU-TV
February 1, 2022
https://www.khou.com/article/news/politics/fort-bend-county-woman-mail-in-ballot-application-troubles/285-9e145a21-4dbe-4044-9b27-849b1593a90a

FORT BEND COUNTY, Texas — Many Texas voters said getting their mail-in ballots this year has turned into a real pain.

One woman in Fort Bend County said her and her husband's requests were rejected twice before they were able to get their ballots.

Fort Bend County reported half of its requests for mail-in ballots were getting rejected earlier this month.

The elections administrator said things are getting better, though.

Fort Bend County has mailed nearly 2,800 absentee ballots for this year's primary elections as of Tuesday, according to the county's elections administrator, John Oldham.

Oldham said the county has mailed out about 2,000 ballots to Democrats and 750 to Republicans.

Getting them hasn't been easy.

"(The elections office worker) said we had the wrong form on the website, we didn't load it up until the sixth," Fort Bend County voter Pam Gaskin said.

Gaskin and her husband downloaded the new form and tried again.

"I grabbed it, filled it out, sent it in," Gaskin said. "I got a call seven days later. She said, "Don't shoot the messenger but you got rejected again.' I said, 'Why?' She said, 'The ID that you put on there did not match the ID in your voter record when you first registered to vote. I said, 'That was 46 years ago, I don't remember what ID I used then.'"

When Gaskin first registered to vote in Fort Bend County she used her Social Security number.

"She provided a TDL number when what we have in our system is Social, so that was rejected," Oldham said.

The mail-in ballot request form asks for either a Social Security number or a driver's license number.

Until recently, if the number a voter provided wasn't on file with the county, the request was rejected.

Oldham is advising voters to go ahead and put down both numbers to make sure their requests go through.

To receive a mail-in ballot you must either be: 65 or older, sick or disabled, out of the county on election day, about to give birth or in jail.

The deadline to request one is Feb. 18.

Gaskin and her husband's ballots arrived Monday.

It was her third attempt.

For qualified absentee voters who may be frustrated by the process – she says don't quit.

"The right to vote is a blood-bought right and I tell people to hang in there, it's worth it, this is your citizenship," Gaskin said. "Don't give up."

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County commissioners remove Brownsville Events Center as early voting location
Marco Ramirez
ValleyCentral
February 2, 2022
https://www.valleycentral.com/news/local-news/county-commissioners-remove-brownsville-events-center-as-early-voting-location/

BROWNSVILLE, Texas (ValleyCentral) – Cameron County commissioners discussed the possibility of adding new early voting locations on Tuesday. The county had been considering the Brownsville Events Center as an early voting location for the March primary election.

Pankaj Patel, who owns two hotels in Brownsville, tells ValleyCentral using the Events Center as a polling location would be bad for local business.

"If you block out more dates for elections, then it will hurt the local hotel and restaurant industry," Patel said. "We don't have any bigger event or meeting space in Brownsville at the moment, so we are counting on this events center to help us out."

The Brownsville Event Center was used as a voting location during the November 2020 election. In a meeting held last month, Cameron County Commissioners expressed interest in using the Events Center again for voting. But that came with some concerns of interfering with events already scheduled at the venue during the early voting period.

"There was a father-daughter dance, the Mr. Amigo Association has it set up for Charro Days so these were events that were simply too big in order for us to use the space in common," said Remi Garza, Cameron County Elections Administrator.

The Commissioners voted Tuesday not to add the Brownsville Events Center as an early voting location for the March primaries due to the scheduling conflicts. But there is still a possibility the Events Center can still be used in the May and November elections.

In order for that to happen, Garza said local jurisdictions in Brownsville would have to decide whether they want to pay the bill.

“During the May elections you’ll have Texas Southmost College, the Brownsville Navigation District and possibly the Brownsville Independent School District,” Garza said. ” One of those entities would have to agree to pick up that cost if they would like to utilize that space.”

According to Garza the cost to use the whole facility would be about $13,000, not including the cost for personnel. But the Brownsville Events Center could possibly become a permanent site for future elections.

“It could be if the court decides that these places are being utilized,” Garza said. “One of the things we like to share with jurisdictions is that if they would like to have early voting locations, you have to use it in order to justify the investment.”

As for business owners like Patel, he’s glad there won’t be any early voting at the Events Center this month, but is still concerned about future elections. Patel urges the county should consider other places.

” It was the right decision made by Cameron County not to rush for this election, because already events were booked,” Patel said. ” But I believe they should not use this space in November or any election.

Cameron County tells ValleyCentral it would not use the entire Events Center if it is used for voting. The Elections Department has already reached out to the venue to reserve space for May and November to avoid scheduling conflicts.

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Report: No Texas public libraries were compliant with federal, state voter registration laws in 2020
Sacha Cordner
KERA News
February 1, 2022
https://www.keranews.org/texas-news/2022-02-01/report-no-texas-public-libraries-were-compliant-with-federal-state-voter-registration-laws-in-2020

A nearly two-year long analysis — and outreach efforts — from the Texas Civil Rights Project shows most public library systems in the state now comply with the laws to register Texans to vote.

A new report shows 60% of the state’s more than 500 public libraries are now compliant with a federal and state law requiring they provide access to voter registration.

“At the beginning of the pandemic in 2020, many voting rights advocates became worried that as libraries closed, people would not be able to register in person at their public library as the law guarantees them the right to do,” said Ryan Cox, Senior Attorney for the Voting Rights Program at the Texas Civil Rights Project, which conducted the analysis from Spring of 2020 through the end of 2021.

“We started looking into that problem and realized that not a single library in this entire state was fully compliant with their obligations,” added Cox, who also co-authored the new 35-page report.

Cox credited his group's outreach and education efforts for bringing most of the state's public libraries in line with the National Voter Registration Act and the Texas Election Code.

"At this time, we believe that 299 individual libraries are compliant with the laws," said Cox. "Another 70 or so, or about 15 percent, are working towards compliance, have indicated to us that they are taking steps towards getting a plan on file and implementing procedures."

As TCRP worked with libraries across Texas, Cox said they realized some needed more help than others. He said his group worked with smaller library systems as well as larger ones in Harris and Dallas counties. With the Dallas Public Library system, for example, Cox noted plans and training procedures were in place, but they just needed to be approved by the Texas Secretary of State's office.

"Now, other libraries who had never heard of these rules before needed to be counseled on what the specific rules required — When they had to do it, when they had to train employees and how, what materials they needed to use…and various other things like that," Cox added.

According to the report, TCRP projects that public libraries will now collect and submit over 300,000 new and updated voter registrations in each four-year election cycle.

Still, Cox said there's more work to do. As of last month, TCRP estimated at least 100 of the state's public libraries remain out of compliance – adding that "a majority of which are in Texas' Latino communities."

Monday was the last day Texans could register to vote in the March 1 primary election. According to the Secretary of State's office, more than 17 million Texans are already registered to vote.

Voter registration status can be checked at votetexas.gov.

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New Texas Elections Law Already Causing Problems for Voters
Alejandro Marquez
Bipartisan Policy Center
February 1, 2022
https://bipartisanpolicy.org/blog/new-texas-elections-law-already-causing-problems-for-voters/

Texas is off to a rocky start implementing its new voting law, S.B. 1, enacted in 2021. Mail ballot applications are getting rejected by the hundreds, election officials' hands are tied, and there's a looming deadline for the March 1 primaries. Texas lawmakers should use this moment as lessons learned and act now to prevent excessive ballot rejections in November.

The new legislation requires absentee voters to submit their driver's license or state ID number on their mail ballot application. If a voter doesn't have a DL or state ID number, they can submit the last four digits of their Social Security number, or a statement confirming that they do not have the required identification. However, these new ID requirements don't mesh well with the information election officials have historically provided Texans about registering to vote.

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According to the Texas secretary of state's office, about 702,257 voters have either an ID number or SSN on file with elections offices, but not both. In practice, that means a voter would have to know which number is on file when submitting their ballot application, lest they submit the wrong number and have their ballot get rejected. Texas' restrictive mail voting rules mean that only certain populations are even eligible to vote by mail, thus reducing the potentially disenfranchising impact of this policy failure.

"It is not unusual for primaries to have a higher [rejection rate] than … other elections," Travis County Clerk Dana DeBeauvoir remarked during a press conference, "But that's really high." DeBeauvoir reported having to reject roughly 27% of mail ballot applications so far this primary season. Harris County, Texas' most populous county, has rejected roughly seven times more applications than usual.

Good election policy anticipates downstream impacts. S.B. 1 was rammed through the legislative process largely without the input of local election officials. It's unsurprising that counties are now unequipped to handle the unusually large amount of rejected applications resulting from the law's policy changes.

Texas lawmakers should take this oversight as an opportunity to strengthen voter registration and verification procedures. They can start by better incorporating the input of local election officials into the policymaking process—before implementation.

To ensure fair and equitable access to the ballot, Texas should consider the following reforms ahead of the November election:

- New remote voter identity verification policies should be phased in, not implemented all at once. BPC has highlighted the potential for voter ID numbers to function as an alternative to signature verification, the current industry standard for verifying the identity of mail voters. However, states must ensure that election officials have the voter data on hand to verify identity without excessive, unnecessary rejections before the policy is implemented. States considering this alternative should phase the practice in to give voters and election officials time to adjust.
- Automatic Voter Registration can improve the quality of voter registration rolls. Since a driver's license number and social security number are not both required to register to vote in Texas, a connection with the Department of Motor Vehicles and election officials to supply accurate information for voter rolls would help mitigate ballot rejections due to insufficient data.
- Supply more funding for elections. Local election officials need help in carrying out their duties in any election year, and especially when implementing the suite of changes underlined in S.B. 1. Creating a better-funded elections ecosystem helps the public understand their options with absentee voting, and election officials receive help from the ability to perform their jobs with ease.
- Create a system to better communicate with voters about ballot return measures. It is crucial to have a system in place to inform voters of new voting procedures after a new law passes. This system must reach voters in all geographical areas and can include many forms of communication such as videos, infographics, text messaging, and more.

The administrative lead up to the March 1 Texas primary is well underway. Mail voting applications are already being processed, and absentee voters will start receiving their ballots in just a few weeks. To prevent this oversight from carrying into the November midterms, lawmakers must rethink this statutory deficiency before the general elections.

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Trump's Comments Fuel Bipartisan Effort to Clarify Role of Vice President in Elections
Eliza Collins and Lindsay Wise
Wall Street Journal
February 1, 2022
https://www.wsj.com/articles/trumps-comments-fuel-bipartisan-effort-to-clarify-role-of-vice-president-in-elections-11643755730

WASHINGTON—A bipartisan effort to clarify the vice president's role in certifying election results is gaining momentum and potentially expanding to include other areas of voting law, fueled by recent comments from former President Donald Trump that his former vice president should have overturned the result of the 2020 election.

Sen. Susan Collins (R., Maine) is leading a group of 16 senators in negotiations focused on overhauling the 135-year-old Electoral Count Act, or ECA. The push, emerging from the ashes of a broader Democratic voting-access bill that was blocked by Republicans, comes as members of both parties fear a replay of the contentious 2020 Electoral College process, when Mr. Trump refused to concede defeat and falsely blamed voting fraud for his loss.

Ms. Collins said Mr. Trump's insistence that former Vice President Mike Pence had the power to overturn the election "only underscores the need for us to remove any ambiguity that exists in the act, which is poorly drafted and has not been revised since it was passed in 1887."

Senate Minority Leader Mitch McConnell (R., Ky.) said Tuesday that the Electoral Count Act is flawed and needs to be fixed. "Where it goes from here we'll have to see," he said. Mr. McConnell's support will be key to securing sufficient GOP support. All Democrats and at least 10 Republicans would need to support legislation for it to pass.

Senate Majority Leader Chuck Schumer (D., N.Y.) said he, too, is supportive of overhauling the ECA, but he warned that doing so doesn't eliminate the need to address voting access, campaign finance and redistricting, issues at the center of the failed Democratic legislation.

"We'll have to see what they come up with," Mr. Schumer said of Ms. Collins's group. "Just doing ECA is not sufficient. It may be necessary, but not sufficient."

The Electoral Count Act governs how Congress counts and certifies presidential election results. Critics say it allows for members of Congress to dispute election results without legitimate evidence and doesn't provide the necessary safeguards to make sure the election results are accurate. They say one change would be to clarify the role of the vice president and eliminate any ambiguity about his or her ability to change an outcome.

On Jan. 6, 2021, Mr. Trump urged Mr. Pence to reject the Electoral College votes from some states, which Mr. Pence declined to do. That same day, a pro-Trump mob overran the Capitol, seeking to stop the certification of the election victory of President Biden, a Democrat.

Before that day, Mr. Trump had taken a number of steps to influence the result, including asking Attorney General William Barr during an Oval Office meeting in late November 2020 if the Justice Department could legally seize voting machines in swing states, said people familiar with the conversation, which was reported earlier by the New York Times. Mr. Barr rejected the suggestion, which Mr. Trump told him came from his legal team, saying the Justice Department had no basis for taking control of the machines. Mr. Trump later made a similar request of the Department of Homeland Security, where it was also rejected, one of the people said.

Mr. Trump issued a statement on Sunday opposing changes to the ECA, arguing that by trying to revise it lawmakers were admitting that Mr. Pence "did have the right to change the outcome, and they now want to take that right away. Unfortunately, he didn't exercise that power, he could have overturned the Election!"

Lawmakers have begun negotiating to find compromise on the ECA after Republicans blocked voting-access legislation proposed by Democrats, and Democrats failed to muster the votes needed to change the Senate's longstanding filibuster rule, which sets a 60-vote threshold to advance most bills.

The group led by Ms. Collins met over pizza Monday night and broke into smaller groups to focus on areas of possible compromise that go beyond the text of the ECA to include a narrow set of issues related to elections, such as protections for election workers, funding, presidential transitions and voting practices.

Sen. Joe Manchin (D., W.Va.) said the group was working quickly and would meet again on Zoom Friday to see what progress they had made "then we'll start putting the pen to it." Mr. Manchin said the goal would be for the group to draft legislation and have it go through both the Rules and Judiciary Committees before going to the Senate floor, a process known as regular order.

A separate group of Democrats, Sens. Amy Klobuchar (D., Minn.), Angus King (I., Maine), and Dick Durbin (D., Ill.) began circulating their own proposed changes to the ECA and voting procedures, which would, among other things, clarify that the vice president cannot overturn election results and provide specific guidelines for objections to presidential electors of electoral votes. The trio weren't involved in Monday's negotiations.

Mr. Biden predicted in January that something would get done related to ECA, and White House press secretary Jen Psaki said that Mr. Biden is open to speaking with lawmakers about the ECA.

Senators from both parties who aren't actively involved in the bipartisan group expressed interest in the talks but said they are waiting to see details.

"I don't necessarily think there's any, quote, big ambiguities that need to be fixed. But we did have a president who tried to create them and then exploit them, so I would view it as a positive," said Sen. Tim Kaine (D., Va.).

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Mr. Kaine said he didn't believe the talks centered on the ECA would necessarily distract from Democrats' stalled effort to pass their federal election proposals, which Republicans in the 50-50 chamber have repeatedly blocked.

Those bills propose making Election Day a national holiday, requiring 15 days of early voting, mandating mail-in voting and same-day voter registration, and updating the 1965 Voting Rights Act. Republicans complain that the bills' provisions would give the federal government too much control over elections at the expense of the states.

Sen. Mike Rounds (R., S.D.) said he favors looking into strengthening protections for local officials and volunteers working on elections, but he is less convinced that the Electoral Count Act itself needs to be revised.

"I'm a little hesitant to make changes if it worked correctly the first time around," Mr. Rounds said. "But if there's something that can clear up any inconsistencies or questions, I'd be open to hearing the arguments…I disagree with people that say that the law needs to be fixed because it did work the way that it was supposed to."

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Timing of FBI raid on Henry Cuellar's home so close to election raises questions
Abby Livingston
Texas Tribune
February 1, 2022
https://www.texastribune.org/2022/02/01/henry-cuellar-fbi-raid-election/

WASHINGTON — The FBI raid at U.S. Rep. Henry Cuellar's Laredo home made for a damning drama: a swarm of agents descending upon his property with a warrant in hand, emerging later with a computer and plastic bins and bags full of personal belongings.

Those optics aren't an afterthought for the U.S. Department of Justice. Nor is the timing — which in Cuellar's case came less than two months before the March 1 primary election. That poor political timing has raised questions among legal experts about why the Justice Department, which had to sign off on such an investigation, didn't authorize the raid either months before this primary or later in the spring to minimize impact on the election.

"In general, the department has shied away from taking any overt investigative actions against political figures when an election is looming," said former Justice Department official Emily Pierce. Pierce and other former department officials told The Texas Tribune that the Justice Department is typically sensitive to the devastating power of these images that can cloud a candidate's reputation before that person can defend themselves in the legal system.

The shadow of a criminal investigation is tough for any elected official to navigate. But Cuellar also happens to be in the fight for his political life in his South Texas Democratic primary, where he's up for his 10th term in Congress, and facing challengers Jessica Cisneros, an attorney, and Tannya Benavides, an educator.

Cuellar hasn't been charged with a crime, and he said in a public statement that he's confident the investigation will clear him of wrongdoing. Furthermore, he's stressed that he's all in on the primary race and intends to win reelection.

A spokesperson for the Justice Department declined to comment for this story, as did Cuellar's representatives.

Six former Justice Department employees interviewed by the Tribune said the most common reason for an investigation so close to an election was fear of a continuing crime, like destruction of evidence or a flight risk.

"The reasons they might decide to contravene that policy include a reasonable fear that evidence could be lost or destroyed, indications that a subject might be trying to leave the country or anything else that might impair the future of the investigation if they don't act in a timely way," Pierce said.

"Without knowing the specifics of the case, it's impossible to say whether they feared some criminal intent to destroy evidence or whether there was a more benign reason they felt they had to act quickly," she added.

To be sure, it's possible the investigation may never yield charges.

"We should not presume that a crime has occurred here or that the government is convinced that a crime has occurred," Edward Loya Jr., a Dallas-based attorney, said in an email. Loya served in the department's Public Integrity Section, which handles corruption cases across the country.

"All we know for sure is that the government is gathering information it needs to make an assessment of the allegations with which it has been presented," he added.

John Bash, a defense attorney who has worked at the Justice Department both in Washington and as a U.S. attorney in Texas, said the department operated under "a rule of thumb" in which the Justice Department avoids indictments and overt investigative activity like searches 60 to 90 days before an election.

"None of that means that sitting members of Congress are above the law, but there's an interest in making sure DOJ's role isn't political and … DOJ is not perceived as being involved in politics," he said.

There's precedent for how the Justice Department handles investigations into political figures and also how it's fumbled in the past.

Democrats remain deeply embittered with the FBI from 2016 and former director James Comey's investigation into Hillary Clinton's handling of classified information by way of a private email server.

Comey took unprecedented actions as Clinton was running for president, outlining in July 2016 how she and her staff were "extremely careless," but not criminal. Typically, the department does not explain why it chooses not to indict.

Then 11 days before the election as voters were already casting early voting ballots, Comey announced he was reopening the investigation into Clinton based on new evidence recovered, only to announce on the Sunday before Election Day that the FBI's recommendation to not prosecute stood.

Many Democrats — and pollsters — point to that moment as critical to Clinton's loss.

Years later, former U.S. Deputy Attorney General Sally Q. Yates testified before the Senate Judiciary Committee in a 2020 hearing on the investigation into Russian interference in the 2016 election. She discussed how her office took special care to avoid the appearance of political interference in an election as her office investigated Trump campaign official Paul Manafort. Manafort was later convicted of tax fraud, bank fraud and failure to disclose a foreign bank account. He was pardoned by President Donald Trump in late 2020, just before he left office.

Yates described giving orders to the FBI to ensure "they weren't doing anything publicly with respect to Mr. Manafort, even though he was no longer even with the campaign at this point … because that could be unfair to then-candidate Donald Trump."

"We didn't take any action, whether it was a case involving a local sheriff or a governor or a senator," Yates said at the hearing. "We wouldn't take any action that could potentially have an impact on the election. … It's not just to be fair to that individual, but also to ensure that the public has confidence that this power is not being used to impact an election."

Notably, the FBI raid on Cuellar's house comes during a Democratic administration.

"Given today's political climate and Congressman Cuellar's powerful position in Congress, I would be surprised if the Attorney General's office were not consulted," Loya said.

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From Coast to Coast, Supply Chains Get Off to a Rough Start to 2022
Brendan Murray
Bloomberg
February 1, 2022
https://www.bloomberg.com/news/newsletters/2022-02-01/supply-chain-latest-2022-is-off-to-a-rough-start-in-logistics?sref=ytoldrow

Trucking rates in the U.S. are staying elevated, particularly in the blizzard-hit Northeast, as 2022 gets off to a rough start for anyone hoping to see supply strains fade along with the virus.

The latest weekly figures from Truckstop.com showed the average spot rates in the New England area hit a four-month high, capping its first January increase in data going back to 2014. Truck freight costs eased in other parts of the country but remained well above pre-Covid levels — evidence that capacity shortfalls are snarling supply chains even after the holiday rush and may linger for months.

"We have been bullish on the truckload cycle for quite some time and have not changed our tune," says Lee Klaskow, a senior logistics analyst with Bloomberg Intelligence. "Rates will moderate into the summer but should remain above pre-pandemic level due to supply constraints."

The roadway difficulties are still rippling to other modes of transport. South Carolina's Port of Charleston, for instance, has a record number of import containers awaiting delivery. The stranded boxes have contributed to a line of some 15 container ships anchored nearby waiting to offload as of early Tuesday. In a statement late last week, the port said the bottleneck will take six weeks to clear.

On the West Coast, delays around the neighboring gateways of Los Angeles and Long Beach are longer than ever, Flexport CEO Ryan Petersen said in an interview with Bloomberg TV on Monday.

Slower Ships

He's worried about several longer-term factors that could add to the congestion: contract talks this year with the West Coast longshoremen's union, new environmental rules in 2023 that will force ships to slow down to reduce emissions, and companies overordering without much visibility on their supply chains.

Such uncertainties were weighing on companies in January. According to a Dallas Fed survey released Monday, almost 60% of manufacturers and half of retailers negatively affected by the Covid surge over the past month cited "new or worsened" supply disruptions. That sentiment echoed anonymous commentary in a recent Kansas City Fed survey, a sampling of which is here:

- "Lead-times have doubled in some cases, so if it is supposed to take three weeks it is taking six weeks."
- "Purchasing, costs, supply chain are still massive issues … have basically started raising prices on select items to almost extreme levels to intentionally limit or eliminate demand."

Another wild card is the political response. At the World Shipping Council, which represents the container carriers, President and CEO John Butler is calling for "a careful and targeted approach" and more industry collaboration as lawmakers debate legislation aimed at reforming ocean shipping.

"Congress needs to support the private sector in making each part of the supply chain more efficient and resilient with better data sharing and optimization and step-up investment in the U.S. logistics infrastructure," Butler said in a statement last week. "Working together — ships and stores, trains and trucks, public and private sectors — we can manage the current import influx and position America's supply chain for long-term success."

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Border enforcement actions increased 300% in 2021
Bethany Blankley
The Center Square
February 1, 2022
https://www.thecentersquare.com/national/border-enforcement-actions-increased-300-in-2021/article_835ac552-83b6-11ec-bf65-2b3c18aa04a0.html

(The Center Square) – Border Patrol agents conducted nearly 2 million border actions involving illegal immigrants in fiscal 2021, a 300% increase over the prior year.

The 1,956,519 total enforcement actions last year compares to 646,822 in fiscal 2020.

In December 2021, U.S. Customs and Border Protection (CBP) reported that agents apprehended 178,840 people entering the U.S. illegally, an average of 5,769 people a day.

Because some attempted to illegally enter the U.S. more than once, the total number “somewhat overstates the number of unique individuals arriving at the border,” CBP states.

Still, the number of unique individuals agents encountered in December 2021 was 135,040, a 5% increase from November.

In December, agents encountered 114,993 single adults and 11,921 unaccompanied minors.

Family unit encounters increased by 15% in December, totaling 51,624, up from 45,062 in November, after having reached a peak of 86,631 in August 2021.

New CBP Commissioner Chris Magnus, former police chief in Tuscon, Ariz., commented on the report’s findings, highlighting the efforts of CBP agents but not commenting on the record number of illegal entry apprehensions. He also remarked on agents seizing an increased amount of heroin but didn't directly address the record amount of fentanyl they seized last year as opioid-related deaths increased nationwide.

“The dedicated men and women at CBP are committed to ensuring dangerous drugs and counterfeit products are off the streets, our communities are kept safe, and our borders are secured,” Magnus said. “Equally important to our mission is facilitating lawful trade and travel that is critical to the sustained growth of the U.S. economy. In December, CBP collected more than $9 billion in estimated duties, and also saw a dramatic increase in the confiscation of fake products. In one port of entry alone, CBP officers reported the seizure of more than $30 million of counterfeit goods last month.

“There was a staggering $3.31 billion worth of counterfeit goods seized in FY21 – a 153 percent increase from FY20; heroin seizures increased by 113 percent in December. These seizures demonstrate that our intelligence and operational abilities are disrupting criminal enterprises and safeguarding legitimate commerce. We will continue to strengthen these capabilities and meet these challenges and future ones with the same determination and resolve.”

While the many tasks agents accomplish are important, not knowing who’s entering the U.S. illegally, not being able to apprehend criminals in the field, and not addressing the humanitarian crisis stemming from Biden administration's open border policies is a national security issue, critics of the Biden administration argue.

On hearing of Magnus’ remarks, former CBP Chief Rodney Scott told The Center Square, “My parents always taught me that if I didn’t have anything positive or constructive to say that I should remain silent. Therefore, I have nothing to say about Mr. Magnus or his ability to transition from managing a relatively small police force, to effectively leading a 60,000-person workforce, deployed around the globe that is charged with protecting the American people, safeguarding our borders and enhancing the nation’s economic prosperity.”

Scott briefed Magnus several times before he retired from the agency where he served for over two decades.

AMERICAN OVERSIGHT

While Arizona's two Democratic U.S. senators endorsed Magnus, the National Sheriff's Association and the Arizona Sheriff's Association opposed him as the next head of CBP.

U.S. Department of Homeland Security Secretary Alejandro Mayorkas also championed Magnus, although U.S. Rep. Andy Biggs, R-Arizona, filed articles of impeachment against Mayorkas, claiming he failed to secure the border and uphold his sworn duties. Likewise, Texas lawmakers have called for Mayorkas to be impeached, and others, including West Virginia Attorney General Patrick Morrisey, have called on President Joe Biden to fire Mayorkas for his failures at the border. The president and Democratic leadership have not responded to their calls.

In his testimony before the U.S. Senate Finance Committee, Magnus said as the head of CBP he would uphold the law and "would expect without exception that all agency personnel be conscientious, fair, and humane when enforcing the law." He also described himself as "a pragmatic and bipartisan problem-solver."

When questioned, he wouldn't label what's happening at the border as a "crisis" and acknowledged that he was unfamiliar with the federal law establishing illegal entry into the U.S. as a crime. When asked by U.S. Sen. Todd Young, R-Indiana, if he believed there was a crisis at the southern border, Magnus replied, "Does it really matter if we call it a crisis, a challenge, a big problem?"

Young replied, "I think it speaks to a level of urgency, and seriousness of purpose, and understanding of the gravity of the situation." He asked Magnus numerous times to answer, "Do we have a crisis at the border, yes or no." Magnus didn't reply with a yes or no answer.

At the time, BP agents had already encountered more than 1.3 million people, a number more than 1.5 times greater than the population of Indianapolis.

"I'd say that's a crisis," Young said. "What number of illegal crossings would you consider to be a crisis?" he asked. "What if we were to quintuple that number, would you then call it a crisis?"

Magnus didn't directly answer the question, describing the situation at the border "very serious."

Former CBP Commissioner Mark Morgan told The Center Square that Magnus was "in way over his head and was picked to put a rubber stamp on ideological policies" of the Biden administration.

"As an ideologue and political appointee, he's doing exactly what he's put to do. He's not going to object to anything," he said.

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OPINION: State should prioritize voter registration forms
Editorial Board
Beaumont Enterprise
February 1, 2022
https://www.beaumontenterprise.com/opinions/editorials/article/OPINION-State-should-prioritize-voter-16823320.php

With today's deadline for registering to vote for the March 1 primary elections, it was fitting that Texas Secretary of State's office finally fixed a registration glitch last week for the Houston chapter of the League of Women Voters of Texas. The League had been appealing to the state for more voter registration forms in advance of today's deadline, and state officials surprisingly said that supply chain problems had prevented them from printing up more forms.

The Secretary of State's office initially said it could give only 50 of these forms for the state's most populous city. After widespread and deserved criticism, the state finally came through and sent the League 10,000 voter registration forms. That's far more appropriate for a city the size of Houston … and apparently those "supply chain" problems weren't that bad after all.

In addition to pre-election drives, the League also distributes voter registration forms at ceremonies where new citizens are sworn in. In fact, the League also distributes the forms at conventions, rock concerts and other large public events to help more people take part in democracy's most important duty — voting.

The larger issue here is that the Secretary of State's office knew for months that today would be the deadline to register for the March 1 elections. It should have had a rough idea of how many voter registration forms would be needed, and had enough on hand — plus a few thousand more.

And this is not just a good idea, it's the law. The National Voter Registration Act requires states to make mail voter registration applications available for distribution through governmental and private entities — like the League of Women Voters.

After all, we are talking about a one-page paper form that can't cost more than a few cents for each one. This is a basic responsibility of the Secretary of State's office, and when it fumbles something so simple, Texans will wonder just what is going on? Is it incompetence, which is bad enough, or was this another effort by Republican officials to make it harder for people they believe to be Democrats to register to vote and then actually vote?

Texas is also one of only 11 states that unfortunately does not offer online voter registration. Houston Mayor Sylvester Turner pointed out the folly of this practice, saying "Online platforms are used for everything from banking and on-demand car services to food delivery. It is 2022, and we are still mandating a 19th-century data collection system."

In Jefferson County, residents can register to vote at the county courthouse in downtown Beaumont, at the Mid-County Tax Office by the Jack Brooks Regional Airport and at the Jefferson County Sub-Courthouse in downtown Port Arthur.

If you're not registered yet, please do that today and make sure to re-register if you move within Texas. Your vote matters, but only if it is cast on election day.

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From: Sam Taylor
Sent: Thursday, October 21, 2021 8:01 AM
Subject: SOS Morning News Clips 10/21/21

Sensitivity: Personal

Texas Secretary of State
Morning News Clips
October 21, 2021

U.S. Senate Republicans block federal voting rights legislation that would override Texas' restrictions, *Texas Tribune*, October 20, 2021

Lt. Gov. Dan Patrick wants fourth special session for election audit, higher penalties for illegal voting, *Austin American-Statesman*, October 20, 2021

County to host election machine demonstration, *Wichita Falls Times Record News*, October 20, 2021

Early Voting Turnout About Average in Lubbock County for Upcoming Election, *KFYO-AM*, October 20, 2021

Early voting under way in constitutional amendment election, *Brownwood Bulletin*, October 20, 2021

Texas Lt. Gov. Dan Patrick just paid his first voter fraud bounty. It went to an unlikely recipient, *Dallas Morning News*, October 20, 2021

Are you registered to vote? How to make sure your ballot gets cast, *KIII-TV*, October 20, 2021

Texas voters to decide on raising requirements for judicial candidates, *Spectrum News*, October 20, 2021

In fast-growing Central Texas, redistricting sparks political reshuffling in upcoming statehouse and congressional races, *Texas Tribune*, October 21, 2021

Latinos sue against 'racist' redistricting maps in Texas, *Houston Chronicle*, October 20, 2021

Senate Dems hunt for new elections reform strategy after failed vote, *Politico*, October 20, 2021

AMERICAN OVERSIGHT

Border towns prepare for southern border reopening, *KIVI-TV*, October 20, 2021

Texas Legislators Seek White House Intervention on Mexico Energy Policies, *Natural Gas Intelligence*, October 20, 2021

Ambassador pick emphasizes US strengths in countering China, *Associated Press*, October 20, 2021

Texas Comptroller Visits Anzalduas International Bridge for Good for Texas Tour: Supply Chains Edition, *Texas Comptroller of Public Accounts*, October 20, 2021

U.S. Senate Republicans block federal voting rights legislation that would override Texas' restrictions
Bethany Irvine
Texas Tribune
October 20, 2021
https://www.texastribune.org/2021/10/20/federal-voting-bill-texas/

WASHINGTON — U.S. Sens. Ted Cruz and John Cornyn joined Senate Republicans to block a federal voting rights bill that would supersede parts of Texas' new elections law on Wednesday.

The Freedom to Vote Act — a pared-down version of a more sweeping attempt to pass federal voting legislation called the For the People Act — marks another effort by congressional Democrats to strengthen and expand voting rights across the country. This effort is a direct response to new voting restrictions enacted by several Republican-led state legislatures, including Texas'.

In a 49-51 vote, the legislation came short of the 60-vote majority needed to advance debate on the bill and avoid a Senate filibuster. This comes after Senate Minority Leader Mitch McConnell said Tuesday that it was his "hope and anticipation" that no Republicans would vote for the latest iteration of voting rights bill.

In September, Gov. Greg Abbott signed into law a bill that limits counties' ability to expand voting access options. The new Texas law tightens mail-in ballot requirements, boosts protections for partisan poll watchers, and rolls back local voting initiatives like ballot drop boxes and drive-thru voting.

The Freedom to Vote Act aimed to overturn these restrictions, create a national standard for voter access, establish automatic voter registration and lift various state-level measures that hinder access to the ballot box. Further, the bill would have strengthened the regulatory powers of the Federal Election Commission, tightened restrictions on foreign interference in elections and modified campaign finance regulations.

Republican lawmakers say the voting restrictions are necessary to preserve election integrity and reduce voter fraud — an echo of former President Donald Trump's baseless claims of fraud in the

2020 election. Trump's own attorney general, Bill Barr, said there was no evidence of widespread voter fraud nationwide, and in Texas, an official with the secretary of state's office said the 2020 election was "smooth and secure."

GOP lawmakers also argue that states should be able to set their own voting rules.

Earlier this year, Cruz blocked a Senate vote on the For the People Act, stating on the Senate floor the bill "would constitute a federal takeover of elections" and represented a "massive power grab by Democrats."

Congressional Democrats and voting rights advocates contend that the latest voting restrictions are partisan attempts to disenfranchise voters of color and suppress votes in urban areas.

Earlier this week, Rep. Colin Allred of Dallas signed a letter along with 39 other House Democrats addressed to the Senate insisting that the chamber pass the Freedom to Vote Act.

"America is strongest when our democratic institutions are strong, when they reflect and project the confidence of our people. The Freedom to Vote Act can fortify our democracy and bring Americans of all political stripes back into the town square, where the vitality of our ideas and experiences can be shared with respect, dynamism and hope for the future," the members wrote.

Democratic U.S. Reps. Eddie Bernice Johnson of Dallas, Sheila Jackson Lee of Houston, Sylvia Garcia of Houston, Lizzie Fletcher of Houston, Filemon Vela of Brownsville, Al Green of Houston, Vicente Gonzalez of McAllen, Joaquin Castro of San Antonio, Lloyd Doggett of Austin and Veronica Escobar of El Paso were also among the signatures.

Congressional Democrats have also looked toward the John R. Lewis Voting Rights Advancement Act to codify voting rights protections federally. The bill, which awaits a vote in the Senate, would also negate state-level voting restrictions in Texas and boost protections for voters of color by restoring federal oversight over new political districts, known as preclearance.

Following Wednesday's vote Senate Majority Leader Chuck Schumer announced his plans to bring up the bill for consideration as soon as next week. Still, in the face of staunch GOP opposition, it's unlikely to ever progress for a final vote.

Following Wednesday's vote Senate Majority Leader Chuck Schumer announced his plans to bring up the bill for consideration as soon as next week. Still, in the face of staunch GOP opposition, it's unlikely to ever progress past the Senate floor.

The failure of the bill is likely to renew calls for an exception or "carve-out" to the filibuster for voting rights legislation. However, any changes to the procedure would have to be accepted by Sens. Joe Manchin from West Virginia and Kyrsten Sinema of Arizona, moderate Democrats who have openly opposed filibuster elimination.

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Lt. Gov. Dan Patrick wants fourth special session for election audit, higher penalties for illegal voting

Madlin Mekelburg
Austin American-Statesman
October 20, 2021
https://www.statesman.com/story/news/politics/state/2021/10/20/dan-patrick-fourth-special-session-election-bills/6107679001/

Lt. Gov. Dan Patrick wants Gov. Greg Abbott to call lawmakers back to Austin for a fourth special legislative session, this time to tackle two election-related measures that did not pass during prior sessions this year.

The third special session ended Tuesday, with most of Abbott's agenda items adopted. Patrick called it a "strong conservative session" in a Wednesday tweet, but he said lawmakers need another opportunity to pass a bill increasing penalties for illegal voting and legislation authorizing a forensic election audit — a priority of former President Donald Trump.

"More needs to be done," Patrick said. "I support (Abbott) calling us back to pass both."

Abbott spokeswoman Renae Eze responded to Patrick's tweet in a statement and said there is no need for a fourth special session.

“Texans tasked the Legislature with delivering on key priorities for the state in this most recent special session, including property tax relief, redistricting, and the nearly $16 billion American Rescue Plan Act funding, and we went above and beyond to deliver on these priorities as well as solve other critical issues for Texas," she said. "Because of the Texas House and Senate’s efforts to get these priorities across the finish line, there is no need for another special session at this time.”

The Legislature meets every odd-numbered year for regular 140-day sessions, during which senators and House members can pass legislation on any subject. The governor has the authority to call lawmakers back to Austin for special sessions that can last no longer than 30 days, with limited agendas. During a special session, lawmakers can only pass bills related to items on the governor's call.

This year, the Legislature concluded its regular session in May, and Abbott eventually ordered three special sessions to pass bills related to elections, transgender student athletes and COVID-19 relief spending, among other issues. Abbott called a second special session after most House Democrats left for Washington during the first special session, preventing the chamber from making quorum, blocking passage of a GOP elections overhaul. That measure passed in the second special session. The third session was necessary to draw political districts using delayed U.S. census data.

Penalties for illegal voting

The elections bill made several changes to how elections are run in the state — changes Republicans said would improve election integrity. Rep. Steve Allison, R-San Antonio, added an amendment lowering the penalty for illegal voting from a second-degree felony, with a maximum punishment of 20 years in prison, to a Class A misdemeanor, punishable by up to one year in jail.

The amendment was approved in the House and Senate. Abbott signed the bill into law with the change.

AMERICAN OVERSIGHT

But in late September, Abbott added the issue to the third special session agenda and directed lawmakers to return the penalty to its prior level: a second-degree felony.

House Speaker Dade Phelan, R-Beaumont, rejected the suggestion, saying the House would not take up the issue and arguing that "now is not the time to re-litigate."

Patrick, who had supported Abbott's call to address the issue, placed the blame on the House for failing to advance bills addressing heightened illegal voting penalties and the elections audit, writing: "Senate added felony penalties for illegal voting, but the House cut to a misdemeanor."

Rep. Matt Schaefer, R-Tyler, agreed with the need to restore the higher penalty but pushed back at Patrick's characterization of what took place.

"The simple truth is that the Senate was fully aware of the penalty reduction, and agreed to the change in conference," he said in reply. "I do agree that we should revisit this issue and wish the House had done so in 3rd special. But let's keep the record accurate."

Election audit

Trump placed tremendous pressure on Abbott to add the election audit issue to the third special session agenda, arguing in multiple public messages to the governor that "Texas will always be red, but we must stop the cheating."

Trump has continued to advance baseless claims that the 2020 election was stolen from him, despite no evidence of widespread voter fraud in Texas or nationwide. In Texas, election officials have said there is "no evidence that any voting or voter registration systems in Texas were compromised before the 2016 Election or in any subsequent elections."

Hours after Trump first asked Abbott to add the issue to the session agenda, the Texas secretary of state's office announced that it had started a "forensic audit" of 2020 election results in four of the state's biggest counties: Dallas, Harris, Tarrant and Collin.

But Trump called that a "weak risk-limiting" effort and pushed lawmakers to approve a bill that would give party officials the power to demand mandatory county-level audits of the 2020 general election and future elections.

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County to host election machine demonstration
Lynn Walker
Wichita Falls Times Record News
October 20, 2021
https://www.timesrecordnews.com/story/news/2021/10/20/county-host-election-machine-demonstration/6105130001/

Wichita County will host demonstrations of the proposed new election equipment it must buy as the result of action by the Texas Legislature. Only two venders are approved for Texas.

ES&S will demonstrate its voting equipment on at 7 p.m. Nov. 8, 2021, in Room 10 of the Ray Clymer Exhibition Hall at MPEC.

Harte will demonstrate its voting equipment at 7 p.m., Nov.. 9, 2021, in Room 10, Ray Clymer Exhibit Hall, MPEC.

Wichita is one of eight counties that must replace equipment that does not provide a paper trail of voting. The Legislature acted over concerns of potential voter fraud.

The equipment will cost about $1 million, which the county hopes will be reimbursed by the state. In addition to use in federal, state and county elections, the equipment is also used in local elections such as city councils and school boards.

The county has until 2026 to have the gear in place, but Wichita County Clerk Lori Bohannon has said she hopes to have it operational much sooner to have a better chance of getting state reimbursement.

"The public is encouraged to attend and offer comment," County Judge Woody Gossom said in a press release.

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Early Voting Turnout About Average in Lubbock County for Upcoming Election
Rob Snyder
KFYO-AM
October 20, 2021
https://kfyo.com/early-voting-turnout-about-average-in-lubbock-county-for-upcoming-election/

The "off-year" Texas Constitutional Amendment election cycles traditionally see lower numbers of people voting in Lubbock, and across the rest of the state.

However, this year in Lubbock County, there's more than just a set of proposed Texas Constitutional Amendments on the ballot.

Voters that live within in the City of Lubbock are considering approval of a $174.5 million bond for street repairs and improvements. Portions of Erskine, 34th Street, East 82nd Street, 114th Street, and Broadway would be improved as part of the bond package.

Lubbock County voters will be considering a property tax referendum, which would increase property taxes to fund salary increase for the Lubbock County Sheriff's Office. If voters approve the property tax referendum, the property tax rate in Lubbock County would increase to $.359990 per $100 valuation for property in Lubbock County.

Voters in New Deal ISD will be considering approval of a $48.5 million bond. If New Deal ISD voters approve the bond, the money would be used for a number of items, including: demolishing the current Elementary/Middle School building and constructing a new one; demolishing the current Band Hall

and building a new one; demolishing the current transportation facility and building a new one. Also, a new cafeteria would be constructed along with a new competition gym.

List of proposed Texas Constitutional Amendments from the Texas Secretary of State's office. Texans will be considering eight different amendments.

Listing of Lubbock County Early Voting locations (through Oct. 29).

Finally, back in September, Shallowater officials cancelled an election that would had voters decide on a proposed sales tax increase for their city.

News/Talk 95.1 & 790, KFYO will have complete election coverage on Tuesday, November 2 from 7pm-10:30pm with Rob Snyder, Chad Hasty, Ken Corbin, Steve Evans, Matt Martin and the rest of the KFYO All-Stars.

Early Voting turnout figures for Lubbock County:

2021 Early Voter Turnout- Lubbock County
Day 1 (Oct. 18)-- 578 (-165 from 2019, +234 from 2017, -175 from 2015)
Day 2 (Oct. 19)-- 659 (-183 from 2019, +265 from 2017, -312 from 2015)
Day 3 (Oct. 20)-- 743 (-155 from 2019, +315 from 2017, +87 from 2015)
Three-Day Total Early Voting: 1980

2019 Early Voter Turnout Total- Lubbock County: 11,732
2019 Election Day Voter Turnout- Lubbock County: 9,589
2019 Total Voters- Lubbock County: 21,321

2017 Early Voter Turnout Total- Lubbock County: 4,649
2017 Election Day Voter Turnout- Lubbock County: 2,965
2017 Total Voters- Lubbock County: 7,614

2015 Early Voter Turnout Total- Lubbock County: 9,184
2015 Election Day Voter Turnout- Lubbock County: 6,083
2015 Total Voters- Lubbock County: 15,267

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Early voting under way in constitutional amendment election
Steve Nash
Brownwood Bulletin
October 20, 2021
https://www.brownwoodtx.com/story/news/2021/10/20/early-voting-under-way-constitutional-amendment-election/8536849002/

Early voting in the Nov. 2 constitutional amendment by personal appearance continues through Friday, Oct. 29 in the Elections Office at 613 N. Fisk.

Hours are 8 a.m. to 5 p.m. Monday through Friday through Oct. 27, and 7 a.m. to 7 p.m. Oct. 28-29.

AMERICAN OVERSIGHT

You voter registration application must be received in the elections office or postmarked at least 30 days before an election for you to be eligible to vote in that election.

From the Texas Tribune:

Proposition 1: rodeo raffles

Proposition 1 would allow charitable raffles at rodeo events. Unauthorized raffles can be considered illegal gambling under Texas law.

In 2015, voters approved a rule to allow charitable raffles at professional sports games. The resulting change created fundraising opportunities for education, cancer research and youth programs, according to an amendment analysis.The constitutional amendment on the ballot this November would extend that permission to rodeo events by the Professional Rodeo Cowboys Association or the Women's Professional Rodeo Association.

Proposition 2: tax financing for county infrastructure

This amendment would authorize counties to issue bonds or notes to raise funds for transportation infrastructure in underdeveloped areas. Already, cities and towns have the authority to fund projects with this financing method.

Counties would repay these bonds by pledging increased property tax revenues, but these funds cannot be used for construction, maintenance or acquisition of toll roads.

Proposition 3: restrictions on religious services

If approved, Proposition 3 would ban the state from prohibiting or limiting religious services, including those in churches and other places of worship.

The move stems from conflicts over churches that closed during the early months of the pandemic in 2020. Some local officials extended stay-at-home orders to include places of worship, requiring them to limit attendance or make services virtual — a trend Gov. Greg Abbott and other Republicans pushed back on.

But critics of the proposal worry the change could prevent the government from acting to protect people in future emergencies, such as evacuations and public health emergencies.

Proposition 4: state judge eligibility

Proposition 4 would require candidates to have 10 years of experience practicing law in Texas to be eligible for election to the Texas Supreme Court, the Court of Criminal Appeals or a Texas court of appeals. Currently, the law requires 10 years of experience but allows for out-of-state experience.

Additionally, candidates running to be a district judge would need eight years of law practice or judicial experience in a Texas court, up from the current requirement of four years.

AMERICAN OVERSIGHT

Proponents of the change argue it could create a higher-quality judiciary, but opponents say the proposed requirements could reduce voter choice and diversity within the candidate pool. In Texas, judges are elected by popular vote.

Proposition 5: judicial misconduct process

Proposition 5 would allow the State Commission on Judicial Conduct to have oversight of candidates running for judicial seats by accepting complaints or reports, conducting investigations and reprimanding them. The commission, an independent agency created by the state Constitution, already has these powers over current judicial officeholders.

Proposition 6: essential caregiver designation

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This amendment would allow residents of nursing homes and assisted living facilities to designate one essential caregiver who cannot be denied in-person visitation rights. If the proposition passes, the Legislature would create further guidelines for these caregivers.

Like Proposition 3, Proposition 6 also comes as a response to pandemic-era restrictions. Nursing homes, which were hit particularly hard by COVID-19, saw extended visitation restrictions that prevented residents from seeing family and friends for months.

Proposition 7: property tax exemptions for bereaved families

Proposition 7 would put a limit on school district property taxes incurred by the surviving spouse of a person with disabilities older than 65 who has died. The surviving spouse must be at least 55 years old at the partner’s time of death and still live in the home.

The amendment is necessary to update the Constitution in accordance with the tax code, which was modified in the 2019 legislative session to include this change. If approved, individuals eligible for these tax breaks could receive refunds on collections in 2020 and 2021.

The resolution could reduce school district property tax revenue and increase state funding in accordance with Texas public school funding formulas, according to analysis of the amendment. However, the exact cost of the change cannot be estimated because the number of surviving spouses is unknown.

Proposition 8: property tax exemptions for military families

Proposition 8 would expand eligibility for residential homestead tax exemptions to include spouses of military members killed or fatally injured in the line of duty. Currently, the exemption is extended to spouses of military members killed in action. The new eligibility would include people killed in accidental vehicle crashes or non-hostile events.

This exemption would apply to fewer than 10 people per year, according to analysis of the amendment.

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Texas Lt. Gov. Dan Patrick just paid his first voter fraud bounty. It went to an unlikely recipient
Lauren McGaughy
Dallas Morning News
October 21, 2021
https://www.dallasnews.com/news/politics/2021/10/21/texas-lt-gov-dan-patrick-just-paid-his-first-voter-fraud-bounty-it-went-to-an-unlikely-recipient/

AUSTIN — Nearly a year after offering up a hefty bounty for evidence of voter fraud in the wake of Donald Trump's loss, Lt. Gov. Dan Patrick has handed out his first reward.

But instead of going to an informant who smoked out fraud by Democrats, Patrick's five-figure payout went to a progressive poll worker in Pennsylvania whose tip led to a single conviction of illegal voting by a registered Republican.

The unexpected outcome reveals the political dangers of cash bounties. With few strings attached, and more cases of alleged GOP voting fraud still in Pennsylvania courts, Patrick may be asked to shell out even more cash to his opponents.

This case also undercuts unsubstantiated GOP concerns that widespread voter fraud helped hand the White House to Joe Biden, political experts said. In Pennsylvania, a state that was central in Trump's attempts to overthrow the election, around five cases of voter fraud from last year's election have been prosecuted, according to The Philadelphia Inquirer — four involved Republicans.

In an interview with The Dallas Morning News, tipster Eric Frank said he would have turned in anyone he saw voting illegally regardless of party. But as the scion of a family of Democratic operatives, he also acknowledged the irony of the situation.

This week, Frank deposited $25,000 of Patrick's campaign cash into his bank account.

"It's my belief that they were trying to get cases of Democrats doing voter fraud. And that just wasn't the case," Frank said. "This kind of blew up in their face."

Patrick's spokesman Allen Blakemore declined to comment.

How it started

A week after the 2020 election, as Donald Trump continued to refuse to accept the results, Patrick announced that he had set aside $1 million for tipsters who turned over evidence of voter fraud. Anyone whose information resulted in a conviction, he said in a press release, would get a minimum of $25,000.

The reward offer went viral, thrusting Patrick and Texas into the national spotlight as one of the top supporters of Trump as the former president continues to insist he was the rightful winner of the election. While he bolstered Trump's unsubstantiated story, Patrick blamed Democrats for casting doubt on the election results by not passing more restrictive voting laws.

“Trust me, there are mistakes that have been made,” Patrick, a staunch Republican and Trump surrogate in Texas, said on Fox 26 Houston in mid-November 2020. “The Democrats in Milwaukee and Detroit and Philadelphia and Atlanta brought this on themselves.”

Within weeks, however, a handful of cases of alleged illegal voting had popped up in Pennsylvania. Most involved voters, at least three Republicans and one Democrat, casting or attempting to cast ballots for dead relatives.

The fifth involved Ralph Thurman, a 72-year-old Republican who Frank turned in after seeing him vote twice on Election Day, once for himself and once for his son, who was a registered Democrat.

As early as December, the flurry of allegations prompted Pennsylvania Lt. Gov. John Fetterman, a Democrat, to call on Patrick to surrender the million dollars to him. The two sparred on social media and in the press, with Patrick accusing Fetterman of not taking the issue seriously — and Fetterman selling t-shirts to make light of it all.

But Patrick would not hand over the cash.

Blakemore, his campaign spokesman, told The News in January that only original tipsters whose information helped lead to a final conviction for fraudulent voting were eligible for the rewards — not politicians like Fetterman.

At the time, Frank doubted Patrick would pay up.

“People go on social media and say stuff all the time,” he said.

Then last month, Thurman pleaded guilty to repeat voting. He was sentenced to three years probation and barred from voting for four years, according to The Philadelphia Inquirer. Frank believed he was now eligible for the cash reward and he wanted to seek it.

But he didn’t know how.

How it’s going

Patrick’s press release announcing the voter fraud reward did not have any other details about how to claim the prize, raising questions about why he publicly issued the bounty but no information about how to collect it.

When The News asked about the procedure to collect earlier this month, Blakemore said tipsters could apply directly to him. So Frank did.

After Frank provided some documentation, the Patrick campaign sent him a check for $25,000. It was a lot for Frank but a drop in the bucket for No. 2 Republican in Texas, whose campaign coffers are flush with more than $23 million.

Frank said Blakemore told him he had been the first and only person to seek the prize but that he didn’t receive more because higher dollar rewards were reserved for “bigger fish.”

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“Was he looking for a celebrity or a political group as a whole?” Frank said. “I don’t know what he meant by bigger fish.”

Blakemore declined to comment on his conversations with Frank, saying it would be inappropriate to discuss conversations with a private citizen.

Frank, whose father is an election judge and mother a campaign manager for Pennsylvania Democrats, said Patrick probably doesn’t love the idea that he just put $25,000 into his pocket. As a poll worker, Frank still worries about voter fraud now that he’s seen it in action but says the attention on Democrats is misplaced.

“[Republicans] need to look within their party and not focus so closely on fraud on the Democratic side,” he said.

Mark Jones, a political scientist at Rice University’s Baker Institute for Public Policy, said this case underlines what we already know about voter fraud: It occurs but in small numbers that don’t have an effect on election outcomes. Patrick probably hoped to uncover widespread fraud among Democrats, Jones added, and one-off convictions of Trump supporters don’t fit that narrative.

“As long as he doesn’t have to make too many more payouts, he’ll probably say, ‘the positive public exposure I received is worth the $25,000 I paid,’” Jones said. But Patrick’s bounty could be a cautionary tale for other politicians: “Be careful what you wish for.”

Thurman’s lawyer, meanwhile, said his client’s double vote was just a big mistake. His client is hard of hearing and thought the masked poll worker said he could vote for his son, Jeff Oster said.

“Had this not been an exceptionally contentious election year in the middle of a global pandemic, none of this would have occurred,” Oster told The News. “It is certainly disingenuous for anyone – including Eric Frank himself – to think that he should be rewarded for his actions on Election Day.”

Frank maintains Thurman knew exactly what he was doing when he cast a second ballot. As for the reward, Frank plans to save the cash so he and his fiancée can buy a house. Some small amount could go to political or philanthropic causes, like animal welfare.

For helping him build his future, Frank had a message for his unlikely patron.

“Thank you for putting out the bounty,” he said to Patrick. “I’m glad that you and your team honored your words.”

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Are you registered to vote? How to make sure your ballot gets cast
Ashley Gonzalez
KIII-TV
October 20, 2021
https://www.kiiitv.com/article/news/local/are-you-registered-to-vote-how/503-db66e91b-b631-4144-b556-8e7d517a8bd6

CORPUS CHRISTI, Texas — While early elections began Monday, eight Texas constitutional propositions are currently on the table.

Local voters are the ones to decide on these eight topics.

Early voting started on Oct. 18. and will go on until Oct. 29. Election day is on Nov. 22.

There are eleven locations to choose from to cast your ballot, with the Nueces County Courthouse as the main location.

Kara Sands, Nueces County clerk said traditionally, fewer folks participate in this election and that should change.

"Sadly historically constitutional elections have been very, very low," Sands said.

Additionally, Sands laminates that if you registered to vote in Nueces County then you can vote at the number of voting sites around town.

"If you're registered in Nueces County you can vote at any of the 11 early voting locations, or any of the 52 voting centers on election day," Sands said.

If you chose to vote through mail, Sands said to make sure those are in the county clerk's office by Friday, Oct. 22.

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Texas voters to decide on raising requirements for judicial candidates
Karina Kling
Spectrum News
October 20, 2021
https://spectrumlocalnews.com/tx/south-texas-el-paso/news/2021/10/21/texas-voters-to-decide-on-raising-requirements-for-judicial-candidates

AUSTIN, Texas — Early voting is underway for the state's November 2 constitutional amendment election. Texas voters will decide whether to make eight additions to the Texas Constitution.

One of the propositions — prop four — would change the eligibility requirements to serve on the Texas Supreme Court, Court of Criminal Appeals and intermediate appeals courts. Candidates would have to be a practicing lawyer or judge in Texas for at least 10 years. Those running to be a district judge would need eight years of experience instead of the current four. The measure would also prohibit candidates from running for any of these judicial seats if their law license had been suspended, revoked or placed on probation.

Former Texas Supreme Court Justice Craig Enoch says it’s a step in the right direction, but more needs to be done to take politics out of the process.

“Some states that we’ve looked at are what they call merit selection. You have a panel…that would pick the judge,” he said. “Then the judge would serve for a term of years and at the end of term of years, the citizens would get a chance to vote them out of office. You either vote to retain or not, and that’s what the merit selection is. It’s sort of to remove as much as it can the politics of the judge siting on the bench, but also allow the citizens some accountability if the judge just isn’t working out.”

Texas is one of six states that pick judges through partisan elections.

Chief Justice Nathan Hecht told the Texas Legislature in 2019 that’s “among the very worst methods of judicial selection.” He also pointed to how voters know little about the judges and their challengers so most make their pick based on party affiliation and “judicial elections make judges more political, and judicial independence is the casualty.”

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In fast-growing Central Texas, redistricting sparks political reshuffling in upcoming statehouse and congressional races
Patrick Svitek
Texas Tribune
October 21, 2021
https://www.texastribune.org/2021/10/21/redistricting-central-texas-2022/

Redistricting is causing political upheaval across Texas, but nowhere has it been more intense than in Central Texas.

Since the hours after the first redistricting map proposal was released last month, political dominoes began falling in the region, with members of both parties scrambling to take advantage of new opportunities — and change course after previous opportunities disappeared.

While few, if any, seats are expected to change party control, it is likely that there will be a considerable number of new faces among the region’s state and federal lawmakers after the 2022 election. And in many cases, they will be representing districts whose boundaries have significantly shifted.

A major reason for the dynamic is that redistricting is done every decade to account for population changes — and Central Texas is the fastest-growing part of the state.

The three Texas counties with the quickest growth rates over the last decades were all in Central Texas, according to the latest census. The No. 1 fastest-growing county, Hays, saw its population grow by more than 50% from 2010 to 2020.

There are, of course, political considerations by the Republican mapmakers as well. As Central Texas has ballooned in population, many Republicans representing the area in Austin and Washington, D.C., have seen increasingly competitive races.

The explosive population growth resulted in the Austin area receiving one of the state’s two new congressional districts, the other going to the Houston area.

On Monday, longtime U.S. Rep. Lloyd Doggett, D-Austin, announced he was running for reelection in the Austin area's new 37th Congressional District, instead of his current one. It is one of many political storylines in Central Texas that have come out of the redistricting process so far.

Here's a rundown of how the new Texas House, Texas Senate and U.S. House maps are affecting 2022 races:

Texas Senate

Within hours of the release of the first draft of the Senate map, former state Sen. Pete Flores, R-Pleasanton, announced he was running for the new Senate District 24. Flores lost reelection last year in the current Senate District 19, a Democratic-leaning district that he flipped in a 2018 special election upset.

The new SD-24 looked far more hospitable to Flores. For starters, it was an open seat, with its incumbent, Sen. Dawn Buckingham, R-Lakeway, running for land commissioner next year. The district was drawn to conspicuously encompass Flores' hometown of Pleasanton, before swooping up around the San Antonio area into the Hill Country. And Flores would not have to worry about the general election in the proposed district, which former President Donald Trump carried by double digits last year.

The GOP's determination to put Flores back in the Senate became only more explicit in the hours and days after he declared his candidacy. Buckingham endorsed him, then Lt. Gov. Dan Patrick and then Trump, who remains close with Patrick.

Flores' rapid rise was a blow to Ellen Troxclair, the former Austin City Council member who had been campaigning for months as effectively the frontrunner for the current version of SD-24. Troxclair initially held out hope that the map proposal could evolve to her benefit, but as it became increasingly clear that would not happen, she announced she was ending her campaign and instead running for a newly proposed seat in the state House.

Still, Flores will not have the SD-24 primary to himself. Six days after Troxclair ended her campaign for SD-24, another Republican, Raul Reyes, jumped in. Reyes ran last year for the battleground 23rd Congressional District, where he battled fellow Republican Tony Gonzales in a primary runoff that went to a recount. Gonzales finished 45 votes ahead and ultimately remained the winner, but the runoff drew national attention because U.S. Sen. Ted Cruz endorsed Reyes and Trump backed Gonzales.

Reyes quickly made clear he would run aggressively against Flores. Speaking on the campaign trail a few days after launching his campaign, Reyes said SD-24 needs "a bulldog — not a lapdog — in the Senate," suggesting the chamber's leadership paved the way for Flores' return because they believe they can control him.

Reyes will not have Cruz on his side this time, though. A couple days after Reyes announced his campaign, the U.S. senator endorsed Flores.

Texas House

When the initial draft of the state House map came out, there were two major political takeaways for Central Texas: Rep. Erin Zwiener, D-Driftwood, appeared doomed, and a crowd of Republican incumbents and candidates were going to have to make some tough decisions.

First up: Zwiener. Her residence was drawn out of her current district — the battleground 45th — and moved in to the neighboring 73rd District. The 73rd was set to be safely Republican, and Zwiener would stand virtually no chance of reelection there. She said she hoped she could get back her current district as the proposed map developed, but she also said she was unlikely to move if it stayed the same, suggesting she would not be returning to the House.

After days of uncertainty, Zwiener was rescued by an amendment to the map proposal on the House floor that moved her back into District 45. The amendment easily passed and Zwiener confirmed afterward that she will run for reelection there.

Things ended up more complicated for Republicans in the region. The initial draft of the House map placed both Rep. Kyle Biedermann of Fredericksburg and Terry Wilson of Marble Falls in the same district, the 19th.

However, it did not take long for the prospect of an incumbent-versus-incumbent matchup to go away. Wilson announced days later he would move to seek reelection in the newly proposed version of his current district, the 20th.

Biedermann, meanwhile, revealed that he owned a home Comal County, inside another newly redrawn district, the 73rd. That effectively left him with the choice of seeking reelection in the new HD-19 or the new HD-73.

Around the same time, two 2020 Republican candidates who had already launched comeback bids for the state House in Central Texas, Justin Berry and Carrie Isaac, were having to strategize. Not only were the boundaries of the districts they ran for last year shifting, but the districts were also becoming much less competitive.

One factor became Troxclair, who announced Oct. 1 that she was abandoning her state Senate campaign and instead running for the new HD-19.

About two weeks later, another piece of the political puzzle fell in place when Isaac announced her decision: She would run for the new HD-73.

Those decisions meant Biedermann would face a competitive primary in whichever district he chose. On Wednesday, he ruled out one of them, HD-73, saying in a series of tweets that whatever he runs for next “will be close to my home” in Gillespie County, which is inside HD-19. While his tweets did not mention HD-19, he confirmed to the Tribune afterward that he was still contemplating a run for it.

A day earlier, though, arrived the most dramatic news for Central Texas Republicans: Berry would run for HD-19, facing a fellow Republican, Troxclair, with whom he had built a political alliance. In early August, they had teamed up to endorse one another — Berry backing Troxclair for the state Senate, and Troxclair supporting Berry for the state House.

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In launching his campaign, Berry said he currently lives “just outside” HD-19 and would move into it. He also took aim at Troxclair, saying it is “unfortunate Ellen switched to running against me instead of keeping her word.”

To be clear, Troxclair made her plans public over two weeks in advance of Berry’s announcement. He said he was waiting to announce his decision until the House map was finalized, which happened in recent days.

While Troxclair made her plans public well in advance of Berry — on Oct. 1 — Berry said he suggested to her the day before that he would run for HD-19 and he thought he was “confiding in a friend and a supporter.” Troxclair said they talked about “a lot of different options he might pursue” and that she called him later that day to let him know she would run for HD-19.

“But the voters in this Hill Country district don’t care who announced for what, when,” Troxclair said. “They want someone who is going to stand up in the face of adversity to protect our rights and freedoms, lower taxes and get politics out of the classroom — all which I have a proven record of doing.”

Despite the turmoil, all these seats are expected to stay under the control of the party that currently holds them. The one exception, however, is House District 52, currently represented by Round Rock Democrat James Talarico. The district was redrawn to be more favorable to Republicans, and Talarico announced last week he would move and seek reelection in House District 50, where Rep. Celia Israel, D-Austin, is not running again as she prepares for an Austin mayoral bid.

Talarico's decision created an open seat in HD-52, where two Republicans, Caroline Harris and Nelson Jarrin, were already running. And as for HD-50, Talarico announced the district change with a star-studded endorsement list topped by Beto O'Rourke, but it may not keep the primary entirely clear. Hours before Talarico made the announcement, Pflugerville City Councilam Rudy Metayer launched an exploratory committee for the seat.

U.S. House

Most of the political intrigue related to the congressional map in Central Texas centers on the 35th District and the 37th District. The 37th is one of two new districts that Texas is receiving due to population growth, and GOP mapmakers packed it with Democratic voters concentrated in Austin.

One big question was answered Monday when Doggett, who currently represents the 35th District, announced he would seek reelection in the new 37th District. He is the heavy favorite there, with a campaign war chest exceeding $5 million and a long list of endorsements led by some of the top Democratic elected officials from the area.

But Doggett likely will not be unopposed in the primary. Julie Oliver, a Democrat who twice challenged Rep. Roger Williams, R-Austin, filed paperwork with the Federal Election Commission on Tuesday to form an exploratory committee for the new 37th District. Her campaign website currently teases a 2022 run and says, “Austin deserves a choice.”

In any case, Doggett’s decision creates a vacancy in the 35th District, which is set to remain safely Democratic and stretch from Austin to San Antonio, and the Democratic field began taking shape

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after Doggett announced his switch. Greg Casar, a member of the Austin City Council, launched an exploratory committee for the seat Tuesday and said he was likely to run. State Rep. Eddie Rodriguez of Austin said he was also exploring running. And state Rep. Trey Martinez Fischer of San Antonio confirmed he too was interested in running, telling The Texas Tribune he was giving it "serious consideration with both eyes wide open."

Martinez Fischer's interest in the seat became public days earlier when the Texas Senate's redistricting lead, Sen. Joan Huffman, R-Houston, outed him as having asked her to draw his residence into the district. Martinez Fischer did not deny that but said it "doesn't take a lot of genius to draw a map" that puts him in the district given how close he already lives to it. He also joked that he understands how Republicans "would say or do anything if they can get me out of the Texas House."

The latest machinations around the two districts have cast uncertainty over the plans of at least a couple Austin Democrats who were previously seen as potential candidates. One of them is Wendy Davis, the former Fort Worth state senator and 2014 gubernatorial nominee who unsuccessfully challenged U.S. Rep. Chip Roy, R-Austin, last year. She has not commented on her plans since Doggett announced his decision, but she was listed among Casar's supporters, meaning she probably will not run for the 35th District.

State Rep. Gina Hinojosa of Austin was viewed as a possible contender for the 37th District before Doggett switched over. Hinojosa told the Tribune on Tuesday, hours after the end of the third special session, that she is making "no major decisions for the next 2 weeks" and needs "some time to assess & reflect."

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Latinos sue against 'racist' redistricting maps in Texas
Olivia Tallet
Houston Chronicle
October 20, 2021
https://www.houstonchronicle.com/politics/texas/article/Latinos-sue-against-racist-redistricting-16547130.php

A coalition of Latino organizations and individuals has filed a lawsuit against Texas state officials, challenging new redistricting maps approved by the state legislature this week that they say intentionally discriminate against Hispanic voters based on race and national origin.

The Texas Legislature on Monday approved new redistricting maps intended to shape U.S. congressional and state voting boundaries for the next decade. But even as legislation setting the new districts awaited Gov. Gregg Abbott's signature to become law, the Latino coalition filed suit this week, seeking a federal court judgment declaring the maps discriminatory and unconstitutional.

Four maps redrawing U.S. congressional districts and districts for the Texas House of Representatives, the state Senate and the State Board of Education violate Hispanic civil rights by diluting their political strength, the lawsuit says. They do so by "intentionally manipulating district boundaries to reduce Latino voting strength and by making improper and excessive use of race in redistricting," the suit reads.

“The redistricting plans discriminate against the Latino community by dividing the Latino community in such a way that it cannot exercise its political strength,” said Nina Perales, vice president of litigation for the Mexican American Legal Defense and Educational Fund, which is representing the coalition.

Perales said the lawsuit’s merits become “very clear” by observing the disconnect between new data from the 2020 Census that is supposed to inform the redistricting process and the maps drawn by the GOP-majority legislature in Texas.

Texas is the only state in the nation that gained two U.S. congressional seats due to population growth. The largest growth came from the Latino community, with an addition of 1.98 million residents. In contrast, the white population grew only by 187,252 people, according to the U.S. Census Bureau.

“Despite the fact that Latinos grew by almost 2 million, there is no net increase in the number of Latino majority districts in any of the four statewide redistricting maps,” Perales said.

Instead, she said, the two new Texas congressional districts were drawn to the benefit of white voters: one in the Houston northwest suburban area and the other in Travis County, where the city of Austin is located.

Republicans have said that they did not consider race data to draw the maps. “We drew these maps race blind,” said state Sen. Joan Huffman, the Harris County Republican who chairs the Senate Special Committee on Redistricting.

“When you have maps that disenfranchise people to exercise their power to vote, then we take it as a direct attack to our community,” said Cesar Espinosa, executive director of FIEL Houston, one of the nonprofits that comprise the coalition that brought the lawsuit.

The redistricting maps ignored Latinos in general, Espinosa said, as well as Hispanic immigrants who become citizens and integrate into society to participate in the political process and have representation.

“These maps are a broken promise for these citizens,” he said.

Analysts said that Texas redistricting maps were designed by Republicans, as the dominant party, to consolidate the political power they have held for decades in the state.

Gerrymandering has previously led to long court battles in Texas. The Mexican American Legal Defense and Educational Fund was successful in challenging maps drawn by Republicans after the 2010 Census, when a federal court found that Texas lawmakers discriminated against voters of color.

Experts say that rather than making extensive map changes as in the past, Republicans were surgical this time.

This redistricting wasn’t a partisan “feeding frenzy,” said Jeronimo Cortina, a political science professor at the University of Houston. “It’s not the sharks attacking the prey.”

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It was “surgical,” he said, adding that Republicans strengthened their influence districts where former President Donald Trump lost and solidified those where the GOP won to make them safer for the party in the future.

The result can be making those districts less competitive and probably impossible to win by Latinos and minority constituencies, Cortina said.

Perales noted, however, that the new redistricting lawsuit is not about political parties but “discrimination and racism.” She said racism existed in Texas before Republicans became the dominant party.

“These (new) maps protect the incumbency of white elected representatives, regardless of their political party,” she said.

Based on the Texas population growth driven principally by Latinos, Perales said, redistricting could have created a second Hispanic- majority opportunity district in Houston. Now there is only one, the 29th, represented by U.S. Rep. Sylvia Garcia, a Democrat.

The redistricting also failed in not creating a congressional seat for Latinos in Dallas-Fort Worth, Perales said.

The Voting Rights Act previously required Texas to obtain “preclearance” for election-law changes because of the state’s past history of discrimination, but the U.S. Supreme Court effectively invalidated that requirement in a 2013 ruling.

U.S. Senate Democrats on Wednesday sought to advance a sweeping overhaul of election laws aimed at states like Texas, but their efforts were blocked by Republicans, with none agreeing to begin debate on the legislation.

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Senate Dems hunt for new elections reform strategy after failed vote
Marianne Levine and Zach Montellaro
Politico
October 20, 2021
https://www.politico.com/news/2021/10/20/senate-democrats-elections-reform-failed-516333

Senate Democrats are searching for an elusive plan C on elections and ethics reform after facing yet another setback Wednesday.

In a 49-51 vote, the Senate failed to move forward on Democrats' latest elections reform bill, which amounted to an intraparty compromise between Sen. Joe Manchin (D-W.Va.) and a group of seven Democratic senators. While Manchin spent weeks seeking GOP input, in the end no Republicans voted to begin consideration of the legislation, effectively killing the bill in the Senate.

Democrats privately hoped that if they gave Manchin the time to reach out to Republicans and he received no buy-in, he might be more open to shifting from his dug-in position against nixing the legislative filibuster or creating an exception to the rule for voting rights. But so far, there's no public

evidence that the West Virginia Democrat will change his mind, and Democrats seem to have no other options.

“The next steps are unclear, but the first step was to get the Democrats unified on the voting rights bill,” said Sen. Brian Schatz (D-Hawaii.) “We are rapidly running out of time as gerrymandering and voter suppression is happening as we speak and as we dither. Unless we restore the Senate’s ability to make laws, this situation will be dire.”

For months, Democrats have vowed that “failure is not an option” when it comes to enacting their party’s sweeping legislation. But with Senate Republicans unanimously opposed and no indication that the party has the votes to toss the legislative filibuster or change Senate rules, the prospects of Democrats enacting the bill grow slimmer by the day.

“If we can’t get Republicans to join us and we can’t convince our own colleagues to change the rules, there’s not a lot of other great options on the table,” said Sen. Chris Murphy (D-Conn.). “We’re going to need to keep pushing, we’re going to need to keep up the public drumbeat, we’re going to need to recruit more activists. But our procedural pathways are certainly narrow.”

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The latest bill — which is significantly scaled down from an original version that Manchin did not support — creates some federally mandated voting rules, such as requiring states to offer early voting options and expand access to mail ballots. It would also ban partisan gerrymandering, require far more politically active groups to disclose their donors and include more transparency requirements for online advertising.

Democrats view the legislation as existential, and argue that it’s necessary to counter laws in GOP-led states that added voting restrictions. Republicans, however, say the legislation is nothing more than an attempt to federalize the U.S. election system.

"The fundamental problem is the Democrats think Washington ought to run elections and Republicans believe the states ought to run elections,” said Sen. John Cornyn (R-Texas).

"That's the gulf that separates us and I don't see us bridging that gulf."

The Senate in June failed to start debate on a broader elections and ethics reform bill, which passed the House in March but all Republicans opposed. In addition to the defeated vote Wednesday, Majority Leader Chuck Schumer said the Senate will hold a vote next week on a separate bill named after the late Rep. John Lewis (D-Ga.), which would restore a requirement that certain jurisdictions receive approval from the Justice Department or D.C. District Court before changing voting laws. That bill is also short of the 10 GOP votes needed to break a filibuster.

While Schumer vowed that "the fight to protect our democracy is far from over," he didn't detail how Democrats would ultimately overcome opposition from Republicans. Invoking the Reconstruction era in his speech, Schumer said the majority of the Senate was still willing then to move forward on civil rights legislation, despite opposition from the minority.

"If expanding basic freedoms meant going it alone, that was something they were willing to do," Schumer said. "Today, we feel the same way."

Schumer has repeatedly said all options are on the table on voting rights, but he's never specifically endorsed a change to Senate rules.

"There are two possible next steps: one is negotiations, for the Republicans to say OK, here's what we'll go along with, here's what we need, here's what we want," said Sen. Angus King (I-Maine), who helped negotiate the intraparty compromise. "The other is to modify the rules in such a way that we can pass the bill."

While Democrats are pushing for swift passage, the deadline for some of the provisions in the expansive proposed legislation — notably many of the congressional redistricting provisions — may have already passed in some of the most consequential states. Passing a law with new requirements now would likely ensure intense legal battles that could tie up maps for years.

The bill contains an entire title on redistricting reform that lays out criteria for how states can go about drawing new district boundaries, including a ban on "favoring or disfavoring" a political party. The bill does allow for the new requirements to kick in for districts after enactment, "regardless of the date of enactment by the State of the congressional redistricting plan." But some states, including Texas, have already instituted new maps, or are on the verge of doing so.

Sen. Gary Peters (D-Mich.), chair of Senate Democrats' campaign arm, acknowledged the window to act on gerrymandering "is getting close" to closing and "that's why we need to act quickly."

"We don't have unlimited amount of time to fix this," added Sen. Tina Smith (D-Minn.).

Wednesday's failed vote is guaranteed to renew calls from progressives to ax the legislative filibuster. Several Democrats said they expected the caucus to at some point have a discussion about rule changes, noting that the bill is a top priority for the party.

"We have to pass it," said Sen. Tim Kaine (D-Va.), who worked on the unsuccessful intraparty compromise. "Our voters expect us to pass it. If we do not protect people's right to vote, our voters

will not just blame Republicans, they'll say you have the majority, why didn't you protect our right to vote?'"

And activists are increasingly agitating for Biden to do more to overhaul elections policy.

"He's made clear that he supports voting reform, but that is simply not enough," Derrick Johnson, the president of the NAACP, said in an email shortly after the vote. "His inaction on voting rights will define not just his presidency but the future trajectory of this country. We need him to bring this over the finish line."

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Border towns prepare for southern border reopening
Tomas Hoppough
KIVI-TV
October 20, 2021
https://www.kivitv.com/news/national/border-towns-prepare-for-southern-border-reopening

DENVER, Colo. — The U.S. will soon reopen the northern and southern borders to fully vaccinated travelers. Border towns say the economy, health and border relations have taken a hit during the closure.

Now, they are preparing for an influx of much-needed travelers.

"The closure to non-essential travel was devasting to businesses along the border of our region," said Jon Barela, the CEO of the Borderplex Alliance in El Paso Texas.

El Paso shares a border with Ciudad Juarez, Mexico.

It's one of many border towns that was hit hard by the pandemic.

"We know just in downtown El Paso there was something like 45 retail businesses close," Barela said. "It had a really bad impact on businesses."

"From the state of Texas, they estimate the impact on the economy in the U.S. is about $2.5 billion from crossings from Juarez to El Paso in the region," said David Coronado with the International Bridge and Economic Development in El Paso.

Land borders will reopen to all vaccinated travelers starting Nov. 8 — both the northern border with Canada and the southern border of Mexico.

According to the U.S. Department of Transportation, in El Paso in 2020, there were 3 million pedestrian crossings. That was a 60% drop from the year before.

Barela said the economy is dependent on the relationship between the two cities and people being able to cross over to do business.

“It’s been estimated that between 15-30% of the retail trade that’s transacted on the U.S. side of the border comes from Mexican nationals,” Barela said.

“It is very important because it will resume normal border activity in a place like this,” said Mauricio Ibarra Ponce de León Consul General of Mexico in El Paso.

To keep the borders open, international bridge and economic development are increasing operations, and even including pop-up vaccine clinics for those crossing over.

“We do intend to resume our program with CBP. That means adding an additional 1000 hours of overtime at the ports of entry to reduce wait times to open more lanes,” Coronado said. “We do also expect to add additional officers within city streets to manage the conditions we see for southbound trips.”

Dr. Hector Ocaranza with the El Paso Health Department said healthcare between the two cities was impacted as well. He said the reopening will resume health care procedures across the border.

“There’s healthcare that is also cheaper on the other side of the border,” Ocaranza said. “Medications are a fraction of the cost on this side. Our city has a larger population of people who are uninsured and being uninsured poses a challenge because people cannot control their chronic conditions if they don’t have the medication. And many people use to go across the border to get their medication. Having those chronic conditions poorly controlled makes them a high risk of complications for covid that would put a higher strain on our very limited resources.”

According to the Mexico Consulate in El Paso, to keep the borders open, it is crucial that both cities work together to keep vaccination rates high.

“Ciudad Juarez has a vaccination rate of over 80 percent which is the same level that El Paso has,” Ibarra said. “So, it’s important to have the same level -- it’s the same community. It’s important to have the same level of protection so we can continue relating with each other.”

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Texas Legislators Seek White House Intervention on Mexico Energy Policies
Andrew Baker
Natural Gas Intelligence
October 20, 2021
https://www.naturalgasintel.com/texas-legislators-seek-white-house-intervention-on-mexico-energy-policies/

A bipartisan group of Texas legislators has asked the Biden administration to intervene on behalf of U.S. energy companies operating in Mexico amid the latter country’s increasingly nationalistic energy policies.

Sens. John Cornyn and Ted Cruz, along with 18 of the state’s 32 U.S. representatives, signed a letter Tuesday (Oct. 19) to U.S. Ambassador to Mexico Ken Salazar expressing concern with “recent actions taken by the Mexican administration to favor state owned enterprises (SOEs) and push out American investment.”

Through a proposed legislative overhaul, Mexico President Andrés Manuel López Obrador is seeking to roll back provisions of Mexico's landmark 2013-2014 constitutional energy reform, as well as private sector participation schemes in the power sector in place since 1992.

The proposed changes, if enacted, would see upstream oil and gas regulator Comisión Nacional de Hidrocarburos (CNH) and midstream, downstream and electricity regulator Comisión Reguladora de Energía (CRE) disappear. Power grid operator Centro Nacional de Control de Energía (CENACE) would be absorbed by state power utility Comisión Federal de Electricidad (CFE).

The law would mandate that CFE supply 54% of the country's electricity, with private sector generators supplying the remainder.

In addition, it would prohibit self-supply contracts for large electricity consumers, effectively forcing them to purchase power from CFE.

The reforms "would increase state control of the electricity industry and severely limit private investment," the letter's signatories said.

The legislators also cited recent modifications to Mexico's hydrocarbons law, "which allows Mexican officials the power to suspend and revoke key permits for private operations," as well as the operatorship dispute over the Zama shallow water oil field between Houston-based Talos Energy Inc. and Mexican state oil company Petróleos Mexicanos (Pemex).

These actions "violate the spirit and letter" of the United-States-Mexico-Canada Agreement (USMCA), the Texas delegation said, "and need to be addressed."

The lawmakers implored Salazar "to engage directly with senior Mexican government officials to ensure that American energy firms are able to export goods fairly and can continue to drive private investment and job growth throughout the region."

The Texas lawmakers are not alone in citing López Obrador's policies as violating the USMCA.

Talos management said last month that the company had filed notices of dispute with the Mexican government over the decision by energy ministry Sener to grant operatorship of Zama to Pemex, despite the fact that a Talos-led consortium made the discovery.

The Asociación Mexicana de Suministradores Calificados (AMSCA), or Mexican association of qualified suppliers, on Wednesday joined a chorus of business groups speaking out against the proposed changes in the power sector.

Qualified suppliers are electricity providers who compete against CFE in the wholesale power market under the framework of the 2013-2014 reform.

The proposed reform, by canceling existing contracts and permits, would amount to an expropriation, the group said.

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What's more, it would "eliminate competition, and therefore the right of Mexicans to access competitive electricity prices," AMSCA said.

Numerous trade groups also have voiced opposition to the reform on environmental grounds.

The Asociación Mexicana de Energía Eólica (AMDEE) and the Asociación Mexicana de Energía Solar (ASOLMEX) in a joint statement said the reform would amount to a de facto cancellation of the energy transition in Mexico by voiding existing renewable energy supply contracts and giving priority treatment to CFE.

Against this backdrop, U.S. Special Presidential Envoy for Climate John Kerry visited Mexico this week to observe Mexico's Sembrando Vida tree-planting program and stress the urgency of the climate crisis ahead of the 26th Conference of the Parties (COP26) climate summit in Glasgow in November.

In a speech, Kerry made no mention of the proposed reforms or the grievances of U.S. energy companies doing business in Mexico.

"During the visit, President López Obrador shared his decision to begin a structured transition toward the greening of Mexico's energy sector and the strengthening of its energy independence," the countries said in a joint statement.

The statement added that Mexico plans "to cooperate closely with the United States to accelerate Mexico's deployment of renewable energy, including wind, solar, geothermal, and hydroelectric power, as a major step in Mexico's commitment to strengthen the ambition of its Nationally Determined Contribution under the Paris Agreement next year."

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Ambassador pick emphasizes US strengths in countering China
Ellen Knickmeyer
Associated Press
October 20, 2021
https://www.heraldstandard.com/elections_ap/ambassador-pick-emphasizes-us-strengths-in-countering-china/article_fbc249f0-b79e-58d1-98d6-8abf15282e2a.html

WASHINGTON (AP) — President Joe Biden's pick for ambassador to Beijing told lawmakers considering his nomination on Wednesday that Americans should "have confidence in our strength" when dealing with the rise of China, a nation he said the U.S. and its allies could manage.

Nicholas Burns, a former senior State Department official and diplomat with decades of experience in Washington and overseas, testified before the Senate Foreign Relations Committee at a time when the Biden administration is trying to swing U.S. focus overseas to managing competition with China. The post of China ambassador stands to be one of the most important for U.S. foreign policy.

China's assertiveness militarily, diplomatically and economically in the region and beyond under its ambitious president, Xi Jinping, increasingly has given rise to warnings of a new Cold War. This

includes hawkish talk of an arms race with warnings of China threatening to overtake the U.S. in high tech, trade, military technology and other arenas while challenging the U.S. for world influence.

In his testimony Wednesday, Burns had a calmer take, framing the U.S. relationship with China as manageable.

China “is not an Olympian power,” Burns said. While a country of “extraordinary strength,” it also has “substantial” weaknesses and challenges politically, economically and demographically.

“We should have confidence in our strength, American strengths, confidence in our business community, in our innovation community, in our universities, in our ability to attract the best students from around the world, confidence in our unmatched military. In our first rate Foreign Service and civil service, confidence in our values that stand in brilliant opposition to China’s authoritarian regime.

"We will succeed if we build this American strength around our diplomacy,” he said.

He emphasized building alliances in the Indo-Pacific as essential to countering China. That included praising the defense alliance Biden announced last month with Australia and the United Kingdom as potentially “transformational." Domestically, the defense pact is best known for triggering French pique, when Australia broke off a deal for French-made submarines in favor of subs with U.S. nuclear power.

Burns also gave what would be a rare bit of credit from the Biden administration to its predecessor, praising President Donald Trump and his last secretary of state, Mike Pompeo, for reinvigorating a bloc with Australia, India and Japan.

He echoed the Biden administration's stand on cooperating with China where possible but condemning many of its actions, calling China's treatment of its largely Muslim Uyghur minority “genocide" and its trade practices unacceptable. He aligned with U.S. support for Taiwan and Hong Kong in the face of China's military and political actions there.

As the No. 3 State Department official in the George W. Bush administration, Burns led negotiations to control Iran's nuclear program and to close a nuclear deal with India, which some have criticized as weakening longstanding policy on nuclear nonproliferation. His work since leaving the foreign service includes teaching diplomacy at Harvard's John F. Kennedy School of Government.

Burns' status as a senior statesman under Republican and Democratic administrations is likely to win his nomination broad support in a Senate vote. However, two Republican senators, Ted Cruz of Texas and Josh Hawley of Missouri, are pledging to block Biden's nominees over unrelated disputes, creating what the Biden administration says is a critical shortfall in U.S. diplomatic representation abroad.

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Texas Comptroller Visits Anzalduas International Bridge for Good for Texas Tour: Supply Chains Edition
Texas Comptroller of Public Accounts
October 20, 2021

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https://comptroller.texas.gov/about/media-center/news/20211020-texas-comptroller-visits-anzalduas-international-bridge-for-good-for-texas-tour-supply-chains-edition-1634149427473

(MISSION) — On the South Texas stop of his Good for Texas Tour: Supply Chains Edition, Texas Comptroller Glenn Hegar today toured the Anzalduas International Bridge, one of five Hidalgo County international bridge crossings that connect the United States to Mexico and are major gateways for the trade of items such as electronics, machinery, petroleum and fresh produce.

“Border crossings support global supply chains by facilitating the movement of people and goods between neighboring countries,” Hegar said. “Trade between Texas and Mexico represents a significant contribution to the state economy, and the cross-border trade of intermediate goods (components of final products) is an integral part of many industries’ supply chains.”

The Anzalduas International Bridge, which is owned and operated by the City of McAllen in partnership with the cities of Hidalgo and Mission, connects Mission, in Hidalgo County, to Reynosa, Tamaulipas, Mexico, which is home to more than 150 international companies with manufacturing plants within a 9-mile radius. The bridge officially opened in January 2010, and operators recently announced a nearly $54 million investment to expand the northbound and southbound lanes. Over the next three decades, the expansion is projected to realize about $642 million in total benefits and savings in vehicle operating costs, time, environmental impacts and toll revenues.

The Hidalgo County bridge crossings were part of a system that accounted for $33 billion in trade through the Hidalgo County ports of entry in 2020. (Trade through all Texas ports of entry totaled $638 billion in 2020.) The top 10 commodities traded across the five Hidalgo County international bridges accounted for 86 percent of all trade through these ports.

The economic growth of Hidalgo County also was spurred by the implementation of the North American Free Trade Agreement (NAFTA) in the 1990s. This agreement allows Mexican factories, called maquiladoras, to receive manufacturing parts and goods from the United States on a duty- and tariff-free basis and to return goods to the United States.

During this Good for Texas Tour, Hegar is sharing the results of a new Comptroller’s office study detailing the vital role supply chains play in enhancing production efficiencies and reducing costs for producers and consumers. The study also examines the risks to supply chains and how businesses and the federal government are responding to those risks.

For more information on the tour, including video and social media graphics, go to the Comptroller’s website.

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From: Sam Taylor
Sent: Wednesday, November 10, 2021 8:21 AM
Subject: SOS Morning News Clips 11/10/21

Sensitivity: Personal

Texas Secretary of State
Morning News Clips
November 10, 2021

Outgoing elections leader announces 2022 challenge to county clerk, *Hood County News*, November 9, 2021

County residents get hands-on time with voting machines, *Wichita Falls Times Record News*, November 9, 2021

Administrator: Smith County saw an average turnout in the November election, *Tyler Morning Telegraph*, November 8, 2021

Temple ISD bond fails after provisional votes counted, *KCEN-TV*, November 9, 2021

Group condemns DOJ's 'frivolous' suit against Texas over election integrity reforms, *Southeast Texas Record*, November 9, 2021

Grayson County Commissioners approve new map after redistricting, *KXII-TV*, November 9, 2021

Montgomery County OKs change to commissioner precincts, *Houston Chronicle*, November 9, 2021

U.S. Rep. Gohmert considers run for Texas attorney general, *Spectrum News*, November 9, 2021

Wisconsin elections chief says audit report needs correcting, *Associated Press*, November 9, 2021

Rick Scott promises NRSC will fight for 'election integrity,' revisits 2018 recount gripes, *Florida Politics*, November 9, 2021

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Texas set to get around $30 billion from new infrastructure bill, *KAMC-TV*, November 9, 2021

Biden, Trudeau, AMLO to Meet as North American Borders Reopen, *Bloomberg*, November 9, 2021

Mexico Natural Gas Buyers Said Nervous About Winter Supply, Price Shocks, *Natural Gas Intelligence*, November 9, 2021

Analysis: Corporate Mexico feels heat from global supply chain crunch, *Reuters*, November 9, 2021

Your vote matters, *The Paisano*, November 9, 2021

Analysis: Texas Republican lawmakers pleased most of their own voters, most of the time, *Texas Tribune*, November 10, 2021

Outgoing elections leader announces 2022 challenge to county clerk
Kathy Cruz
Hood County News
November 9, 2021
https://www.hcnews.com/news/outgoing-elections-leader-announces-2022-challenge-to-county-clerk/article_be5e80f2-41b3-11ec-8ca8-f795e9e3c700.html

Michele Carew announced during Tuesday's regular meeting of the Commissioners Court – her last as Hood County's elections administrator – that she will run for county clerk in 2022.

Carew will seek to unseat Katie Lang, a member of the Hood County Elections Commission who tried to fire her despite Carew having received kudos from the Secretary of State's office for her handling of the 2020 presidential election.

Lang told the HCN last week that she intends to seek a third term.

The filing period for the March 1 primaries opens Saturday and runs through 6 p.m. Monday, Dec. 13.

Last month, attempts by Lang, Precinct 4 Commissioner Dave Eagle, Republican Party Chair David Fischer, and a faction of the local Republican Party to oust Carew from her nonpartisan position was the focus of a lengthy Texas Tribune article.

Publication of the article was followed by Carew's appearance on CNN's "Don Lemon Tonight," and the situation was the subject of an opening monologue on the Rachel Maddow Show on MSNBC.

Other media outlets picked up the story, and Carew, who has voted in Republican primaries for more than a decade, wrote an editorial about her experience in Hood County that was published by The Washington Post.

Carew was on the Commissioners Court agenda to provide the county judge and commissioners a report on the Nov. 2 election and to update them on the elections administration department.

When it came time to speak about her department, Carew read a prepared statement.

“Today I stand here angry,” she began. “I’m angry that the politically motivated harassment that I’ve received in this position has pushed me to the point where I am choosing to leave a job I was so excited to be in.”

Carew went on to say that the happiness she felt over being close to family and working in the profession she loves “was sullied significantly by political partisanship that has never been part of this position in the time I’ve spent in the election world, until now.”

The president of the Texas Association of Elections Administrators, Carew has 14 years’ experience and was previously head of elections for Aransas County.

Elections administrator positions were created by the Legislature to allow elections to be supervised by nonpartisan, appointed officials.

Carew was appointed by the five-member Hood County Elections Commission to replace Crickett Miller, who resigned just weeks before the November 2020 presidential election. Miller, too, was criticized by Lang and Eagle.

In her statement to the Commissioners Court, Carew said that she is angry that what happened to her “is spreading across the country.”

She said that it is a “troubling issue as it seeks to control how elections are run, just to benefit a radical politically partisan group that is ultimately damaging to the democracy that made America great long before any of us were even born.”

Carew said that she has grown to love Hood County and will continue to be involved and serve the community.

“I therefore intend to run for the position of county clerk in 2022,” she stated. “I look forward to doing the will of the people, for the betterment of all, not just a select few.”

On Tuesday afternoon after the Commissioners Court meeting, Lang responded to the HCN’s request for comment about Carew’s claims of harassment and her announcement that she will run for county clerk.

“From what I have seen, the only thing Ms. Carew was subjected to was accountability,” Lang wrote in an email. “While she has been undermining the electoral process by ignoring Texas Statutes and soliciting money from liberal mega donors, I have been fighting to protect election integrity, the Top Republican Party priority.”

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She continued, “Ms. Carew has the right to run for office just like she has the right to vote. I’m sure Hood County voters will easily see who best represents their Christian conservative principles along with the experience, and qualifications of a County Clerk.”

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County residents get hands-on time with voting machines
Lynn Walker
Wichita Falls Times Record News
November 9, 2021
https://www.timesrecordnews.com/story/news/2021/11/09/county-residents-get-hands-time-voting-machines/6350331001/

Dozens of Wichita County residents turned out Monday evening to look at new voting machines the county is considering purchasing.

Wichita is one of eight Texas counties required by the state to buy all new voting equipment. The requirement mandated by the Texas Legislature followed concerns about voter fraud in the 2020 election. The current equipment does not produce paper ballots, which the legislature now requires.

Representatives from ES&S demonstrated how the company’s machines work and talked about the security measures in the system. Visitors then had a chance to get hands-on time with the machines.

ES&S is one of just two companies authorized by the state to sell equipment to counties. The change will cost Wichita County about $1 million, which county officials hope will be reimbursed by the state.

The second company, Harte, was scheduled to make its public presentation Tuesday evening in the Ray Clymer Exhibit Hall at the MPEC.

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Administrator: Smith County saw an average turnout in the November election
Maleri McHam
Tyler Morning Telegraph
November 8, 2021
https://tylerpaper.com/news/local/administrator-smith-county-saw-an-average-turnout-in-the-november-election/article_fafd873e-40c7-11ec-b0fa-5b7fae33037c.html

Although last week’s turnout was pretty standard for a constitutional amendments election, Smith County Elections Administrator Michelle Allcon said she was pleased with the amount of voters who cast a ballot on Election Day.

Out of 148,949 registered voters, 10,831 (7.27%) cast their ballot. Unofficial results show voters passed the eight constitutional amendments and a countywide road and bridge bond for $45 million.

Allcon said more voters cast ballots on Election Day than all of those cast during early voting. Out of the 20 voting locations open, five of them saw 700 or more voters.

“I did not have high hopes for Election Day and it went a lot better than I thought it would, turnout wise,” she said, adding a higher overall turnout would’ve been ideal.

Compared to previous years, the turnout for this election was a bit higher than the 6,077 (4.7%) people who voted in 2017, but not as high as the 17,710 (11.4%) people who voted in 2019, Allcon said. While she was hoping for the numbers to be closer to those in the 2019 election, Allcon said she is glad they were a bit higher than in 2017.

“It was still a little disappointing but it was expected,” she said. “People just don’t vote during the constitutional amendments for the most part.”

Constitutional amendment elections are important, but they are not talked about as much by people, Allcon said. Elections were pushed through social media and other outlets, but at the end of the day, not having candidates on the ballot produces a lot less election conversation, Allcon added.

Results from the November elections can be found by visiting https://www.smith-county.com/government/departments/elections/current-election-information/current-election-results

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Temple ISD bond fails after provisional votes counted
KCEN-TV
November 9, 2021
https://www.kcentv.com/article/news/education/bell-county-will-recount-votes/500-f8b4304e-f74d-4b7c-b724-eedcd95c1e50

BELL COUNTY, Texas — A bond to improve facilities at every Temple Independent School District failed Tuesday after another count of the ballots, according to the Bell County Elections Board.

The count included an additional 18 provisional votes. The bond initially failed by just three votes on election day 1,964 to 1,967.

The official count was 1,965 votes for the bond and 1,967 against the bond, according to officials and the margin of three moved to margin of two.

Only one of those provisional ballots included a vote regarding the TISD bond, according the officials.

The $178.3 million Proposition A raises the tax rate by 12 cents per $100 of property value, the district said. It goes toward facility upgrades at every campus.

According to Deputy Chief of Bell County Elections, Jeannette Compean, the count will be the final numbers, but they don't become official until the canvassing on Nov.15.

Once the board counts the vote with the additional ballots, Compean said the district can ask for a recount.

Dr. Bobby Ott, Temple ISD superintendent, reacted to the results by saying:

“I would just like to say that I am very proud of our professionalism, positivity and honesty throughout this process,” said Ott, “No matter what side of the vote, our entire community has highlighted these things throughout the bond process. The needs were determined by our citizens and our engagement with the community has been nonstop. Based on the number of emails and calls I’ve received It appears that many people regret not voting. The democratic process of voting was not founded on the basis of apathy. It was started with the idea that every voice matters - and this includes your voice for your local schools and your own children and grandchildren. The results of this election revealed that truth. As TISD’s superintendent, I want to be clear that I am committed to running this process as many times as necessary to ensure the needs of our students, staff and community are met when it comes to facilities and being provisioned for growth. We will re-engage the community, modify the package based on input and run it back.”

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Group condemns DOJ’s ‘frivolous’ suit against Texas over election integrity reforms
Southeast Texas Record
November 9, 2021
https://setexasrecord.com/stories/612133151-group-condemns-doj-s-frivolous-suit-against-texas-over-election-integrity-reforms

AUSTIN – By attacking states with frivolous lawsuit, the Biden Administration has weaponized the Department of Justice into an arm of the Democrat political party, according to the Foundation for Government Accountability.

Last week, the DOJ filed suit against Texas over the state’s allegedly “restrictive” voting procedures imposed by Senate Bill 1, which was signed into law back in September.

The complaint contends the bill violates the Voting Rights Act by restricting assistance in the polling booth for voters who have a disability or are unable to read or write.

The complaint further argues the bill violates the Civil Rights Act by requiring rejection of mail ballots and mail ballot request forms because of paperwork errors or omissions.

The FGA has announced that it has already prepared an amicus brief in support of Texas, arguing that the bill strikes a lawful and proper balance between making it easy to vote, but hard to cheat.

“This lawsuit is extremely troubling, but not unexpected, given the great lengths the current administration has gone to weaponize the DOJ into an arm of their political party,” stated Chase Martin, legal affairs director for FGA. “FGA will continue to stand beside Texas as it takes on this barrage of baseless legal attacks from the left.”

Filed in the Western District of Texas, case No. 5:21-cv-01085

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Grayson County Commissioners approve new map after redistricting
Lauren Rangel

KXII-TV
November 9, 2021
https://www.kxii.com/2021/11/10/grayson-county-commissioners-approve-new-map-after-redistricting/

SHERMAN, Texas (KXII) - Grayson County Commissioners are redistricting and drawing the lines for a new map.

Re-drawing the maps happens every 10 years after the census data is released.

Tuesday, they approved five new voting districts in the county because of a growth in population and the annexation of cities.

And, they said precinct lines shifted to accommodate growth too.

Out of all four, precinct one grew the most over the last decade.

“When we talk about local government, it doesn’t get any more local than a voting district,” said Grayson County Judge Bill Magers. “What we did today was making sure that as our county has grown and changed that every single citizen in Grayson County has access to vote.”

They said the justice of the peace maps did not change, and there is no more than a five percent difference of population between each precinct.

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Montgomery County OKs change to commissioner precincts
Catherine Dominguez
Houston Chronicle
November 9, 2021
https://www.houstonchronicle.com/neighborhood/woodlands/news/article/Montgomery-County-OKs-change-to-commissioner-16606392.php

With no public comment and little discussion, the Montgomery County commissioners adopted a final plan that will even out commissioners precinct by moving Voting Box No. 2 from Precinct 4 to Precinct 1.

The redistricting is required by state law every ten years following a census count to ensure the population of commissioners’ precinct remain equal. During a special session last week, the court adopted several policies to get the process complete before the Nov. 12 deadline.

While the county grew by 36 percent since 2010, Montgomery County commissioner precinct grew mostly evenly. With Precinct 1 the smallest in population and Precinct 4 the largest, the court needed to make the minor adjustment of moving Voting Box No. 2.

Outside legal counsel representatives told commissioners last week the redistricting needed to be done quickly.

“It’s a ticking time bomb,” David Mendez with Bickerstaff Heath Delgado Acosta LLP said, adding if the county proceeds with imbalance precincts, county would be open a one person one vote lawsuit. “A person can bring action to stop the election until you fix the imbalance.”

Mendez noted filing for the 2022 election starts Nov. 3.

Mendez presented several key things the court needed to keep in mind when modifying the precincts during a Wednesday special session. Of those guidelines, Mendez said when redrawing precinct lines, you can’t “pack” or crack” minority voters in a way that is affects their voting power.

Required by law, the process comes up every 10 years following the release of updated census data. According to the United States Constitution and the Voting Rights Act, precincts can’t have more than a 10 percent population difference. If that happens, precinct boundaries would be redrawn to distribute the population more evenly.

The 2020 census shows the county’s new population to be 620,443. That is a 36.1 percent increase over 2010’s population of 455,746.

Precinct 4, headed by Commissioner James Metts, took the top spot with the most residents at 163,098. In contrast, Precinct 1 Commissioner Robert Walker found his precinct with the fewest residents at 144,667. As for Precinct 2 Commissioner Charlie Riley and Precinct 3 Commissioner James Noack they came in neck and neck with 156,549 and 156,138 residents respectively.

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U.S. Rep. Gohmert considers run for Texas attorney general
Karina Kling
Spectrum News
November 9, 2021
https://spectrumlocalnews.com/tx/south-texas-el-paso/news/2021/11/09/u-s--rep--louie-gohmert-considers-run-for-texas-attorney-general

TEXAS — East Texas Republican Congressman Louie Gohmert says he’s exploring a run for Texas attorney general. The GOP primary field is already crowded and Gohmert says he’ll jump in if he can raise $1 million over the next 10 days.

“We’re running out of time,” he told supporters according to a video of his announcement posted on Facebook by the Smith County Republican Party. “If I’ve got a million bucks or more, I am all in. I am going to be the hardest running candidate you’ve ever seen.”

Candidates must file to run by Dec. 13 for the primary on March 1.

Like other candidates in the race, Gohmert hinted he’d make incumbent Ken Paxton’s legal woes central to his campaign. Paxton is under investigation by the FBI over bribery and abuse of office allegations. Paxton also has been battling a securities fraud case since his first months in office in 2015. He has denied wrongdoing in both.

Gohmert suggested Republicans could lose the powerful statewide office to a Democrat if Paxton wins the nomination.

“We’ve got to have an attorney general that’s undistracted by moral and legal issues of his own and who can get elected a year from now,” Gohmert told the crowd of supporters.

Gohmert is known as one of the most far-right Republicans in the Texas congressional delegation. He’s repeated former President Donald Trump’s unsubstantiated claims that the election was stolen and suggested the Jan. 6 riot was a left-wing conspiracy.

Paxton already faces three high-profile primary opponents: Texas Land Commissioner George P. Bush, former Texas Supreme Court Justice Eva Guzman and state Rep. Matt Krause, R-Fort Worth.

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Wisconsin elections chief says audit report needs correcting
Associated Press
November 9, 2021
https://www.wbay.com/2021/11/10/wisconsin-elections-chief-says-audit-report-needs-correcting/

MADISON, Wis. - Wisconsin Elections Commission administrator Meagan Wolfe says there are a handful of errors that will need to be corrected in the Legislative Audit Bureau’s report on the 2020 presidential election in the state.

Wolfe told the Joint Legislative Audit Bureau Tuesday that many of the inaccuracies in the report could have been addressed before it was released in late October.

She says the bureau decided to publish the report without giving the agency or its staff a chance to respond.

Wolfe and the six-member bipartisan commission have come under attack from Republicans alleging a handful of cases of voter fraud in Racine County.

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Rick Scott promises NRSC will fight for ‘election integrity,’ revisits 2018 recount gripes
Jacob Ogles
Florida Politics
November 9, 2021
https://floridapolitics.com/archives/471750-rick-scott-promises-nrsc-will-fight-for-election-integrity-revisits-2018-recount-gripes/

U.S. Sen. Rick Scott promised the National Republican Senatorial Committee will help defend so-called “election integrity” laws in Florida and elsewhere. He also accuses Democratic election officials of trying to illegally count too many ballots in counties favoring his opponent in Florida’s 2018 Senate race.

He made the public commitment to Republican National Committee Chair Ronna McDaniel during an episode of her “Real America” podcast released Tuesday morning.

“The RNC and the NRSC are doing a lot. We’re defending lawsuits in Georgia, Florida, Iowa,” Scott said. “We’re going into Texas and probably North Carolina because we’re a team.”

Scott, this election cycle, chairs the NRSC, which will support Republican Senate campaigns in electoral battlegrounds nationwide. It’s a critical cycle for the GOP as it aims to retake the majority in a chamber evenly split 50-50, with Vice President Kamala Harris’ tie-breaking vote giving Democrats control.

The Florida Senator at the podcast’s outset gave McDaniel and the RNC credit for his own seat in Washington.

”You won my race in 2018,” Scott told McDaniel.

“I think you had a lot to do with that,” McDaniel responded in-kind.

Scott secured his seat in the Senate by defeating three-term Democratic incumbent U.S. Sen. Bill Nelson by a razor-thin 10,033 votes out of more than 8 million cast. That was actually the third statewide race Scott won in a row by slim margins, having also won the Governor’s Mansion twice by 1.2 percentage points in 2010 and 1 percentage point in 2014. Notably, Scott reminded McDaniel the RNC did “nothing to help me win” his races for Governor.

“You have a unique perspective on an issue that is so pervasive in our party right now, which is election integrity,” McDaniel told Scott during the podcast. “You came up against some really bad supervisors in Broward and Palm Beach as a candidate.”

That’s accusations leveled against former Broward County Supervisor of Elections Brenda Snipes, whom Scott as Governor suspended after irregularities in his 2018 Senate race, and Palm Beach County Supervisor of Elections Susan Bucher, who Gov. Ron DeSantis suspended shortly after.

“We won by I think like 54,000 or 57,000 votes on Election Night,” Scott said. And then the Democrats sent down Marc Elias, who’s the lawyer who comes out to steal elections and he publicly said he was going to win the election. He didn’t care what the votes were.”

Elias represented Nelson during a state-mandated recount. He fought unsuccessfully for the state to count vote-by-mail ballots received after the election. He did successfully fight to allow voters to cure signatures on ballots received before polls closed.

“We had to fight for three weeks every day,” Scott said.

He accused elections supervisors of violating the law, resulting in a tighter election victory.

”They found 95,000 votes illegally after Election Night and they tried to count them all,” he said. “Those votes weren’t for me. Shocking.”

Both Broward and Palm Beach are heavily Democratic counties. While Scott sued Snipes over alleged misconduct, no nefarious acts were proven in court.

McDaniel said she was at the Broward Supervisor of Elections going through ballots herself by hand.

Scott said this all shows the importance of "getting the right laws and then electing the right people." His comments come as Florida enacts a set of controversial election restrictions on vote-by-mail and early voting, and as DeSantis pushes for more changes before the 2022 midterms.

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Texas set to get around $30 billion from new infrastructure bill
Grace Morris
KAMC-TV
November 9, 2021
https://www.everythinglubbock.com/news/local-news/texas-set-to-get-around-30-billion-from-new-infrastructure-bill/

LUBBOCK, Texas — The Biden Administration passed a new $1.2 trillion infrastructure bill with bipartisan support in both the House of Representatives and the Senate.

"We've long sort of thought here at The Chamber that an investment in our country's infrastructure was long overdue," said Vice President of Government Relations for the Lubbock Chamber of Commerce, Kyle Jacobson.

The bill aims to provide millions to improving roads, bridges, broadband internet, public transportation and more to folks across the country and in Texas.

Specifically, around $30 billion from the bill will come to Texas, at least $100 million of which will go towards expanding broadband internet.

That's something the Lubbock Chamber of Commerce said is desperately needed in the South Plains.

"It's largely rural areas west of I-35 that are still in need of broadband connectivity," said Jacobson. "So we were happy to see that that was included. I think that will be good for our regional economy here in West Texas because broadband is so important not just for commerce but for education and telemedicine."

However, not all are in favor of the bill that was passed. Congressman Jodey Arrington says he's concerned the bill does not target the needs of Texans and will ultimately harm the Texas taxpayers.

"I think it's horribly fiscally irresponsible," said Arrington. "This is a negative return on investment for Texas taxpayers. It makes no sense. It is very irresponsible and there was no way I was going to support this bill."

Arrington said he feels the bill is more about progressive policies rather than core infrastructure and will plunge the country further into debt.

“It is a bad return on investment for tax payers and it doesn’t fix the problems that Texas has with the current bureaucracy and red tape in terms of the permitting process to actually build the infrastructure,” said Arrington.

While not everyone agrees on the new deal, the current plan is that the bill will be paid for largely by using unspent emergency relief funds and unemployment insurance aid.

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Mexico Natural Gas Buyers Said Nervous About Winter Supply, Price Shocks
Andrew Baker
Natural Gas Intelligence
November 9, 2021
https://www.naturalgasintel.com/mexico-natural-gas-buyers-said-nervous-about-winter-supply-price-shocks/

Natural gas buyers in Mexico are nervous about supply and price shocks similar to Winter Storm Uri happening again this winter, experts said Monday at the U.S.-Mexico LDC Forum in San Antonio, TX.

Amid a historically tight global gas market, Mexico is more dependent than ever on pipeline imports from the United States, said NGI’s Christopher Lenton, senior editor for Mexico and Latin America, who keynoted day one of the conference.

The cold snap in February, which caused a 20% plunge in natural gas production in the south-central United States as power demand surged, showed the risks of Mexico’s dependence on U.S. gas supplies.

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Mexican gas buyers “always bring it up when I speak to them,” Lenton said. “They were slammed by it completely unprepared, and there are still consequences from that event.”

During the cold snap in February, Texas Gov. Greg Abbott issued an executive order restricting natural gas exports outside the state.

Pipeline natural gas deliveries from Texas to Mexico fell by more than 1 Bcf/d to slightly above 4 Bcf/d at the peak of the cold weather event, according to NGI calculations based on pipeline electronic bulletin boards.

Prices at the Waha and Houston Ship Channel hubs, both of which are closely linked to gas prices in Mexico, hit $206/MMBtu and $400/MMBtu, respectively, at the height of Uri. As a result, “we did see some market players unable, or unwilling, to pay their bills and it was a very difficult time,” Lenton said.

“The one thing I hear when I talk to Mexican buyers of natural gas is that they’re very, very nervous going into this winter,” he said. “A lot of that has to do with prices, but there’s also an element that has to do with the winter storm last year.”

In preparation, some gas buyers are looking at hedging instruments, while others are opting to purchase gas on a monthly basis, rather than in the spot market, Lenton said. Citing NGI’s most recent survey of Mexico’s natural gas market conducted in April, Lenton said there was a sizable year/year bump in the number of buyers purchasing gas in the month-ahead market.

He highlighted that Mexico is the world’s sixth largest importer of natural gas behind Italy and the eighth-largest natural gas market in the world, larger than Germany and the UK.

Adding to the challenge, Lenton said, is a lack of natural gas storage capacity in Mexico, as well as the lack of a robust secondary market to optimize unused pipeline transport capacity.

He noted that in the last public consultation of the gas market conducted by Sistrangas pipeline grid operator Centro Nacional de Control del Gas Natural (Cenagas), participants stressed the urgency of adding storage capacity.

Where Are Mexico’s Gas Supply Challenges?
Although Mexico’s gas market challenges vary by region, a common thread is concern about “gas availability, primarily related to the situation that we had back in February,” said Igasamex’s Carlos Arriola, director general, during a panel at the forum. The firm develops and operates natural gas systems in Mexico. Abbott’s executive order on gas exports “brought into the front how politically sensitive these types of issues can be, and how vulnerable to a great extent our current gas supply chain is due to lack of local production and to lack of storage.”

Luxem Energía’s Norberto Catalan, managing director of the energy trading firm, said part of the problem is that Cenagas “doesn’t allow us, as a market participant, to help them” through a secondary market for unused firm transport capacity.

Mexico’s previous government laid the groundwork for a secondary capacity market, and for the development of underground gas storage capacity.

Fellow panelist Rosanety Barrios, an independent energy analyst based in Mexico City, said the current administration has two main objectives in terms of energy policy: shoring up production of oil and gasoline by state oil company Petróleos Mexicanos (Pemex), and of electricity by state power firm Comisión Federal de Electricidad (CFE).

As a result, she said, the main objective of Cenagas has become ensuring gas supply for CFE.

Nonetheless, there is plenty to be optimistic about in Mexico’s gas market, said Arriola. He highlighted that a few years ago, gas buyers in Mexico could purchase natural gas only from Pemex. Today gas can be sourced from numerous marketers. U.S.-to-Mexico pipelines such as the Sur de Texas-Tuxpan offshore pipeline and the Wahalajara system also have improved optionality and energy security, he said.

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Biden, Trudeau, AMLO to Meet as North American Borders Reopen
Jennifer Epstein
Bloomberg
November 9, 2021
https://www.bloomberg.com/news/articles/2021-11-09/biden-trudeau-amlo-to-meet-as-north-american-borders-reopen?sref=ytoldrow

The leaders of the United States, Canada and Mexico plan to meet in-person for the first time in Joe Biden's presidency as early as next week, according to two people familiar with the matter.

The meeting, as soon as next week, will bring together Biden, Canadian Prime Minister Justin Trudeau and Mexican President Andres Manuel Lopez Obrador soon after the countries eased pandemic-related travel restrictions.

Immigration, energy and trade, as well as the broader recovery from the Covid-19 pandemic, are likely to be among the topics the leaders discuss.

Lopez Obrador said in a Tuesday video address to migrants that he planned to visit the U.S. and to talk to Biden about immigration. He did not specify when that meeting would take place.

On Monday, the Biden administration reopened U.S. land borders with Canada and Mexico to nonessential travel, easing restrictions that had been in place since March 2020.

Biden has met virtually with both leaders and was at two summits in Europe with Trudeau earlier this month. Lopez Obrador hosted U.S. Vice President Kamala Harris in Mexico City in June.

The White House declined to comment and spokespeople for the two other leaders didn't immediately respond to requests for comment. Reuters earlier reported plans for the trilateral meeting.

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Analysis: Corporate Mexico feels heat from global supply chain crunch
Noe Torres
Reuters
November 9, 2021
https://www.reuters.com/world/americas/corporate-mexico-feels-heat-global-supply-chain-crunch-2021-11-09/

MEXICO CITY, Nov 9 (Reuters) - From the auto industry to producers of toilet paper and cement, Mexican companies have been hit hard by bottlenecks in international supply chains, depressing growth prospects for Latin America's second-largest economy.

Thousands of vehicles have sat on Mexican assembly lines awaiting missing semiconductors, but the impact of raw material shortages has been felt right across the corporate landscape.

Time and again in third quarter reports, companies flagged concerns over the disruptions that are increasingly bleeding into their bottom line in Mexico, an economy built around free trade that depends heavily on international supply chains.

Retailers and car companies expect the phenomenon to eat into traditional pre-Christmas sales, while rising input costs have fanned high inflation, pushing up interest rates even as growth expectations for Mexico have been scaled back.

"You can see the impact everywhere," said James Salazar, an analyst at bank CI Banco. "The problem is that if we keep seeing a recovery in demand, many companies will be in a jam."

Logistical bottlenecks have forced automakers, which contribute some 3.4% of Mexican gross domestic product (GDP), to carry out a slew of temporary work stoppages, curbing business.

Lower output crimped third quarter sales at conglomerate CYDSA (CYDSASAA.MX), a maker of coolants for the auto sector, by 2%. At Vitro (VITROA.MX), which produces windshields, windows and sunroofs, revenues in its auto business were down 14%.

Manufacturer Nemak (NEMAKA.MX), which supplies components for companies such as Audi and Nissan, had to lower its 2021 sales target to $3.82 billion from $3.9 billion previously.

DELAYS

Lack of materials and delays have taken the shine off the recovery many companies had anticipated as the hit they absorbed in lockdowns caused by the COVID-19 scourge wore off.

Mexico's economy shrank 8.5% last year, its worst performance since the 1930s. Though it is expected to expand about 6% this year, analysts polled by the central bank in October shaved two tenths of a percentage point off their 2021 forecast.

The central bank recently estimated the semiconductor squeeze could knock one percentage point off GDP growth in 2021.

That pain radiates far beyond carmaking, also engulfing global cement giant Cemex, a bellwether for broader demand.

The Monterrey-based firm (CEMEXCPO.MX) said in the third quarter international logistics problems and higher costs hit its operating EBITDA - an indicator of profitability - even though sales grew in almost all of its markets. .

Cemex Chief Executive Fernando Gonzalez said that due to supply chain disruptions it had reduced 2021 capital expenditure guidance by $100 million to $1.2 billion.

Internet provider Axtel (AXTELCPO.MX) said shortages would knock some $2.5 million off its revenues in the second half of 2021 because delays meant delivery times of four to six weeks had become five or six months, making some projects unfeasible.

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Rival America Movil (AMXL.MX), the company controlled by billionaire Carlos Slim, is also feeling the pinch.

"I think in all the world, in all Latin America ... there is lack of handsets," said Daniel Hajj, America Movil's CEO.

CONSUMERS PAY

With Christmas only weeks away, companies' hopes of lifting sales risks falling foul of a lack of inventories.

Enrique Guijosa, finance chief of El Puerto de Liverpool (LIVEPOLC1.MX), one of Mexico's main department store chains, told analysts he expected shortages in sporting gear because of pandemic-induced shutdowns in countries like Vietnam and China.

Restrictions on goods' availability have translated into higher prices as companies pass on added costs to consumers. Inflation is now above 6%, double the central bank's target.

Gruma (GRUMAB.MX), a producer of Mexican staple food tortillas, said it had to put up its cornmeal prices, and flagged further potential increases next year.

Kimberly-Clark de Mexico (KIMBERA.MX), whose portfolio of brands includes Petalo toilet paper and Kleenex tissues, announced average price increases of 7% that would become fully effective at the end of the first quarter of 2022.

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Your vote matters
Gauri Raje
The Paisano
November 9, 2021
https://paisano-online.com/27972/commentary/your-vote-matters/

One of the perks of turning 18 is gaining the ability to legally cast your vote.

After the 2020 general elections, when, to my disappointment, I missed the eligibility cutoff by a week, my urge to vote grew. Soon enough, I was able to vote for the very first time as a legal adult. My very first time voting was in the Nov. 2 elections that took place in Texas. While the elections themselves were on a state level and dealt with propositions, the ability to walk into the voting center and cast my very first ballot was just as exciting. On my way back home, I was filled with a unique sense of satisfaction. Through my ballot, I had voiced my opinion. I had, in a way, done my part in contributing to the very essence of democracy – voting. Voting ensures we, as citizens, hold our elected officials accountable. It ensures that a democratic government is created by the people and for the people. Without voting, there is no democracy.

Yet, voting is often not a priority for many people, including young college students. In fact, college students and younger voters are often described as having one of the lowest participation rates in elections, especially state and local elections.

This lack of participation can be attributed to several reasons: including the fast pace of life, which makes voting seem like a hassle. Why would you stand in a long line for hours on end only to cast a vote that probably won't make a difference?

Don't forget that every single vote that is cast in an election adds up. Your vote matters. By voting, you are voicing your opinion. By voting, you are exercising a fundamental right you are entitled to by law.

And by voting I'm referring to all kinds of elections – be it local, state or national. In fact, state and local elections probably have the most direct impact on your day-to-day life.

Voting is a small yet consequential way in which our everyday lives are affected. It is far from trivial. The electoral process has real world consequences. Not exercising the right to vote is nothing short of complacency. Not to mention the strict voting laws many states have passed to restrict access to the ballot, which further highlights the importance of voting.

The current political climate is extremely polarized. A lot is at stake, especially for the younger generation, who will, so to speak, inherit the country and the planet. Voting at a time like this is all the more important if we want our generation to have a voice.

As college students who are just beginning to step into the real world, it is important to develop the habit of participating in elections early in life. In the age of digital media, it is very easy to get sucked into the trap of performative activism. We often find ourselves asking how we can really make a change and voting is the first step in doing so. It's the first step in getting involved.

If you are eligible to vote, get out there and cast your ballot. Furthermore, if you are passionate about certain issues, that is all the more reason for you to vote. And while you're at it, make sure you read up on the issues you will be voting on to ensure that your vote is well informed. It might seem like a burden, but, as a first time voter, I can assure you it is worth the effort.

Next time you come across news of an election, be it local, state, national or otherwise, go and vote. Your vote counts. Your vote matters.

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Analysis: Texas Republican lawmakers pleased most of their own voters, most of the time
Ross Ramsey
Texas Tribune
November 10, 2021
https://www.texastribune.org/2021/11/10/texas-election-polling-issues/

Texas voters weren't impressed by the work of the Texas Legislature this year. That might make for some interesting arguments leading up to next year's elections, but it could also fall flat, since

lawmakers drew so few truly competitive districts in the new political maps that will be used in those elections.

The latest University of Texas/Texas Tribune Poll found a mixed set of reactions from Texas voters:

- Voters approve of lawmakers' work on Second Amendment rights by a 46%-32% margin, but when it comes to the legislative response to gun violence, 35% approve and 41% disapprove.
- Approving voters were outnumbered by disapproving voters on immigration/border security, responses to COVID-19, abortion, transgender student athletes, public education, redistricting, property taxes and foster care.
- More voters than not approved the Legislature's work on election and voting laws and public safety.
- The biggest reaction to a list of issues was in the 60% of voters who disapprove of lawmakers' handling of reliability of the electric grid, after a nearly statewide loss of electricity during last February's polar vortex.

You might see all of that as fodder for next year's elections. For challengers chasing incumbents in the party primaries, that might be the case. But new redistricting maps drawn after the 2020 census are designed to protect incumbent lawmakers in general elections, along with preserving the Republican majority in the Texas Legislature.

Few legislative districts are competitive. Nearly all of the 181 contests in the November 2022 general election will be decided in favor of the political party — and most often, the incumbent — chosen by the mapmakers this year.

The issues are there. The contests are not.

Elections have consequences. It's a cliche because it's true.

One consequence of the 2020 election is that it reaffirmed solid Republican majorities in both the Texas House and Senate, and those legislators drew maps that reduce future threats to their majority. In the process, they also protected themselves from everything but challengers in the party primaries.

That's cheating, but it's the nature of redistricting — no matter who's in charge. The people in charge take care of the people in charge. Their maps are being challenged in courts — the first lawsuits were filed before lawmakers were even finished. But unless the courts decide the maps need significant revisions, the new maps will be used in next year's elections.

Voters will get their best shot at the issues in just a few months. The party primary elections are set for March 1. Candidates can officially file for office as early as Saturday, and the filing period will last a month.

The first threats to incumbents — and for most of them, the only real threats — will come from within their own parties and within the next four months.

For the state's attorney general, the issues are personal. At least three Republican elected officials — a former Texas Supreme Court justice, a land commissioner and a state representative — say they

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will challenge Ken Paxton. He was indicted more than six years ago on securities fraud and still hasn't gone to court during years of procedural legal folderol. What's more, he's the subject of an investigation sparked by top aides who claim he used his state office to benefit a political donor.

For others, starting with the governor and the lieutenant governor, the work of the Legislature during 2021 will be the content of the 2022 election. Their primary voters like some of that work. In that most recent UT/TT Poll, strong majorities of Republican voters generally approve of the lawmakers' work on the Second Amendment (80%); elections and voting (75%); immigration and border security (73%); public safety (69%); and abortion (67%).

Among all voters, none of those issues won the approval of more than 46%. On two issues — immigration/border security and abortion — disapproval outpaced approval.

The state's incumbent lawmakers didn't get winning scores on other issues, like their COVID-19 responses and their work on public education, property taxes and the foster care system.

But the sharpest differences in voters' responses fall along party lines. They reveal the careful path taken by the Republican majority during a marathon year of legislating. They stuck with their own party's voters even when it meant going against most of the state's general election voters.

And since the political maps put most of the competition in next year's elections in the primaries and not in the general election, those partisans are the voters who'll grade their work.

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From: Sam Taylor
Sent: Friday, December 17, 2021 9:38 AM
Subject: SOS Morning News Clips 12/17/21

Texas Secretary of State
Morning News Clips
December 17, 2021

Dallas County audit details released, *Coppell Gazette*, December 16, 2021

Texas' renewed voter citizenship review is still flagging citizens as "possible non-U.S. citizens," *Texas Tribune*, December 17, 2021

Ballot numbering under scrutiny in Ellis County, *Waxahachie Daily Light*, December 16, 2021

Garcia: Get set for the weirdest county commissioner race we've ever seen, *San Antonio Express-News*, December 16, 2021

Texas AG Paxton's $2.2M voter fraud unit closed three cases in 2021. GOP lawmakers still boosted its budget, *Houston Chronicle*, December 17, 2021

Lawsuit alleges Harris County Democrat's map disqualifies some voters for six years, *The Center Square*, December 16, 2021

Redistricting changes raises tension in Texas before elections, *KGNS-TV*, December 16, 2021

Texas Democrats eye redistricting fights in state court as federal suits over gerrymandering mount, *Dallas Morning News*, December 16, 2021

How Out Texas Rep. Celia Israel Put Voting Rights First in 2021, *The Advocate*, December 16, 2021

Arlington approves redrawn council districts that some say dilute Black, Latino voting power, *KERA News*, December 16, 2021

Court tells Texas AG, "Nah," On Election Prosecutions, *The Root*, December 16, 2021

Controversial businessman with Dallas ties sees renewed fame as election 'expert', *KERA News*, December 16, 2021

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Nevada county where Trump won to replace voting machines, *Associated Press*, December 16, 2021

Yes, many noncitizens can now vote in New York City, but only in municipal elections, *KCEN-TV*, December 16, 2021

Biden met virtually with U.S. senators to discuss voting rights bill, *Reuters*, December 16, 2021

Voting rights advocates hold hunger strike near White House, *Washington Post*, December 17, 2021

Fox's worst week? Dominion ruling adds to drumbeat of bad news for the network, *CNN*, December 16, 2021

Opening of Texas-Mexico border boosts holiday retail in San Antonio, *Texas Public Radio*, December 16, 2021

EXCLUSIVE-Royal Dutch Shell confirms new delay in sale of Texas refinery to Mexico's Pemex, *Reuters*, December 16, 2021

Texas has built 6 miles of wire border fencing along Rio Grande under Operation Lone Star, *Border Report*, December 16, 2021

Dallas County audit details released
Audrey Henvey
Coppell Gazette
December 16, 2021
https://starlocalmedia.com/coppellgazette/news/dallas-county-audit-details-released/article_37d2abc8-5e99-11ec-9aff-7b644dd8215e.html

The Texas Secretary of State's office has laid out details for phase two of its "full forensic audit" of the 2020 general election in Collin, Dallas, Harris and Tarrant counties.

On Friday, the office shared a letter from Texas Secretary of State John B. Scott addressed to elections administrators for each county.

"As indicated in our office's previous communications, the Texas Secretary of State's office is conducting the largest and most comprehensive forensic audit of the November 2020 General Election in your respective counties," the letter stated. "The purpose of this audit is to provide clarity and confidence for Texas voters that all applicable laws and procedures were followed during the 2020 Election, and to identify any irregularities or issues that need to be addressed going forward."

The letter asks the elections offices to begin locating requested documents in preparation for on-site examinations by the office's Forensic Audit Division, which will be coordinated in January.

The request comes after the office first announced in September that an election audit had already begun in the state's two largest Democrat and Republican counties. The office has since said that the audit is expected to cover about 35% of votes cast for the 2020 general election in Texas.

Scott's Friday letter came with a 10-page attachment outlining the records and procedures that the office is reviewing.

"The specific review process for each category will be based on the county's response to the initial survey questions provided," the office stated. "Once the scope is established on a county-by-county basis, we will provide detailed documentation regarding the specific review of each applicable category."

The outlined materials include voting system test records, lists of election workers, video surveillance records and questions about the county's election security measures.

According to an audit outline that was shared by the office in September, phase 2 involves the office conducting a comprehensive election records examination over several months "to ensure election administration procedures were properly followed during the 2020 General Election." That includes looking at county records including logic and accuracy testing records for voting machines, early voting and election day materials and training materials.

Irregularities or deviations from election administration procedures could trigger a full manual recount of ballots in a certain area, the office stated.

"I'm very confident that Collin County will come through this audit very well," Collin County elections administrator Bruce Sherbet said in September. "We had a very smooth and good election, and I think the biggest part for me is if this audit will help voters that don't have confidence in the process have confidence or more confidence that everything was handled appropriately, then that's very important."

Official election results posted on the Texas Secretary of State's website show that three of the four counties voted for President Joseph R. Biden Jr. in the 2020 general election. Collin County was the only one of the four that overall voted in favor of former President Donald J. Trump in the 2020 general election with 51.4% of the votes cast. Dallas County overall showed favor for Biden with 65.1% of votes cast.

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Texas' renewed voter citizenship review is still flagging citizens as "possible non-U.S. citizens"
Alexa Ura
Texas Tribune
December 17, 2021
https://www.texastribune.org/2021/12/17/texas-voter-roll-review/

Texas' last attempt to scour its voting rolls for noncitizens two years ago quickly devolved into a calamity.

The state flagged nearly 100,000 voters for citizenship checks and set them up for possible criminal investigation based on flawed data that didn't account for immigrants who gained citizenship. After it became clear it was jeopardizing legitimate voter registrations, it was pulled into three federal lawsuits challenging its process. Former Secretary of State David Whitley lost his job amid the fallout. And the court battle ultimately forced the state to abandon the effort and rethink its approach to ensure naturalized citizens weren't targeted.

This fall, the state began rolling out a new, scaled-down approach. But again, the county officials responsible for carrying it out are encountering what appear to be faults in the system.

Scores of citizens are still being marked for review — and possible removal from the rolls. Registrars in some of the state's largest counties have found that a sizable number of voters labeled possible noncitizens actually filled out their voter registration cards at their naturalization ceremonies. In at least a few cases, the state flagged voters who were born in the U.S.

The secretary of state's office says it is following the settlement agreement it entered in 2019 — an arrangement that limited its screening of voters to those who registered to vote and later indicated to the Texas Department of Public Safety that they are not citizens. Flagged voters can provide documentation of their citizenship in order to keep their registrations, officials have pointed out.

But the issues tied to the new effort are significant enough that they've renewed worries among the civil rights groups that forced the state to change its practices. They are questioning Texas' compliance with the legal settlement that halted the last review. And for some attorneys, the persisting problems underscore their concerns that the state is needlessly putting the registrations of eligible voters at risk.

"We're trying to get a grasp of the scale, but obviously there's still a problem, which I think we always said would be the case," said Joaquin Gonzalez, an attorney with the Texas Civil Rights Project, which was involved in the 2019 litigation. "It's definitely something we were concerned would happen if they tried to restart this process."

The review process tries to identify noncitizens using the Department of Public Safety's massive driver's license and ID database. It takes people who indicated they were not citizens when they obtained their IDs and then matches them to the voting rolls. But civil rights groups have been wary of that strategy because the database can contain inaccuracies and is prone to human error.

"It made sense to improve the process [in the settlement], but I think all parties were aware that there were still fundamental problems with the database and how they matched records," Gonzalez said.

Texas' voter citizenship review has persisted through the tenure of multiple secretaries of state and has been backed by state Republican leaders who have touted the broader review effort as a way to ensure the integrity of the voter rolls, though there is no evidence that large numbers of noncitizens are registered to vote.

The current iteration was formally initiated in early September before the appointment of the state's new secretary of state, John Scott, who helped former President Donald Trump challenge the 2020 presidential election results in Pennsylvania.

That's when the state sent counties 11,737 records of registered voters who were deemed "possible non-U.S. citizens." It was a much smaller list than the one it produced in 2019, when it did not account for people who became naturalized citizens in between renewing driver's licenses or ID cards they initially obtained as noncitizens.

But when Bexar County received its list of 641 flagged voters, county workers quickly determined that 109 of them — 17% of the total — had actually registered at naturalization ceremonies. The county is able to track the origin of those applications because of an internal labeling system it made up years ago when staff began attending the ceremonies, said Jacque Callanen, the county's administrator.

Election officials in Travis County said they were similarly able to identify that applications for 60 voters on the county's list of 408 flagged voters — roughly 15% of the total — had been filled out at naturalization ceremonies.

The American Civil Liberties Union of Texas, another group that sued the state in 2019, is still assessing the extent to which the state's new attempt to review the rolls may be defective. But those figures alone should give everyone pause, ACLU staff attorney Thomas Buser-Clancy said after The Texas Tribune provided him those tallies.

"What we do know is that every time the secretary of state tries to do something like this it fails and that these efforts, which inevitably ensnare eligible voters, should not be happening," Buser-Clancy said.

In an advisory announcing the revised process, the secretary of state's office told counties that they should first attempt to "investigate" a voter's eligibility. If they are unable to verify citizenship, the county must then send out "notices of examination" that start a 30-day clock for the voter to submit proof of citizenship to retain their registration. Voters who don't respond with proof within 30 days are removed from the rolls — though they can be reinstated if they later prove their citizenship, including at a polling place.

Beyond the figures from Bexar and Travis counties, local election officials in other counties, including Cameron and Williamson, confirmed they've heard back from flagged voters who are naturalized citizens. After mailing 2,796 notices, officials in Harris County said 167 voters had provided them with documentation proving their citizenship. In Fort Bend, officials received proof of citizenship from at least 87 voters on their list of 515 "possible noncitizens." Last week, Texas Monthly reported on two cases of citizens in Cameron County who were flagged as possible noncitizens.

"This process, agreed upon by all parties and stakeholders, will ensure that only qualified U.S. citizens remain on the voter rolls in Texas' 254 counties," said Sam Taylor, the secretary of state's spokesperson. "We do not want any legitimate, qualified U.S. citizens to be canceled from the voter rolls, and this process protects U.S. citizens' right to remain registered and to vote."

In its advisory, the secretary of state suggested voter registrars could attempt to confirm a flagged voter's eligibility by consulting with other county governmental entities that may have verified their citizenship or by trying to identify voter registration applications that originated from naturalization ceremonies.

"To the extent that counties were able to confirm their citizenship status and they were kept on the rolls — that's exactly how the agreed-upon process is supposed to work," Taylor said of the naturalized citizens identified by officials in Bexar and Travis counties.

However, county officials have previously told the state they often have no way to independently verify someone's citizenship status to avoid sending out the 30-day notices. And most counties don't appear to track applications from naturalization ceremonies.

So far, 2,327 voter registrations have been canceled as part of the review — 88% of them because the voter did not respond to the notice within 30 days. Just 278 were canceled after voter registrars verified they were not citizens. In some cases, county officials said, this occurs because of clerical errors. Nearly 17 million Texans are registered to vote.

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The rest remain pending, largely because the state is now under a federally mandated moratorium on registration cancellations within 90 days of a federal election — in this case, the upcoming March primaries. (Various counties did not send out notices until the last few weeks, meaning any cancellations for failing to respond cannot be carried out until after the primary election.)

Voters flagged through the review process “have every opportunity to confirm their U.S. citizenship status and remain on the rolls, including at the polls when they go to vote,” Taylor said.

But lawyers involved in the 2019 litigation said the state cannot rely on that as a failsafe if the review process is systematically including eligible voters.

“Whatever the flaw is, it’s systematic with respect to naturalized citizens,” said Nina Perales, the vice president of litigation for the Mexican American Legal Defense and Educational Fund, which also sued the state in 2019.

In the shadow of the state’s botched 2019 effort, some county elections officials told the Tribune they approached the renewed effort with hesitation. But unlike two years ago when many of them held off on acting on the state’s lists, county voter registrars are now under financial threat if they don’t cull through them.

The Texas Legislature this year empowered the secretary of state’s office to withhold funds from them if they fail to “timely perform” voter roll maintenance duties, including those related to voters flagged as possible noncitizens. Keith Ingram, the director of the office’s elections division, reminded locals of this in a Nov. 15 email in which he noted “that a number of counties” had taken no action on the registrations his office put into question.

Ingram’s email appears to have prompted several counties to send out notices of examination, while others are still seeking additional data or information that could allow them to confirm that voters are citizens without sending the notices.

Gretchen Nagy, the director of voter registration in Travis County, sees it as “due diligence” owed to the voters, recalling the phone conversations she had with anguished naturalized citizens who were caught up in the state’s 2019 review.

“It was really difficult when people on the other end were really upset and emotionally distraught, [asking] ‘Is there something wrong? Did I do something wrong?’” Nagy said. “We’re basically trying to think outside the box — any agency, any department that we can reach out to — to see if we can do a confirmation of citizenship before these individuals ever have to hear from us.”

Up the road, election officials in Williamson County last week were waiting on guidance from the state in regard to nearly a fifth of the voters on their list of 138 “possible noncitizens” who appeared to have registered through the Department of Public Safety, which only registers individuals once their citizenship has been verified.

The state erroneously included 25,000 of those types of records in its 2019 review — a mistake it began quietly walking back within days of announcing the review effort.

The secretary of state’s office confirmed its current review includes “a limited number” of those matches, though it did not respond to a request for an exact number. Taylor, the spokesperson, said the state determined that some voters who initially registered through DPS were flagged because they “marked ‘yes’ on the citizenship field but later marked ‘no’ on the same field at a subsequent visit

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to DPS." Those records could also include voters who were unable to provide citizenship documents to DPS.

"As a result, these records were flagged for citizenship review," Taylor said.

The issues with the revised review appear to even be reaching voters who were born in the U.S.

Among them is Ivan Henson, a certified public accountant in Tarrant County, who was puzzled when he found in his mailbox a notice from the county dated Nov. 30 indicating his citizenship was in question. He was born in New Mexico.

"There is absolutely no reason I should be on this list," Henson said.

Henson's name appeared alongside more than 600 others on the list of possible noncitizens Tarrant County received from the state. County officials said they reviewed the list to see if they could find any clerical errors but ultimately sent out the notices following the state's instructions.

Recalling news coverage of the state's voter rolls debacle from two years ago, Henson made copies of his birth certificate and passport and quickly mailed them to the county, but he said he worries others who "don't have time to mess with it" won't be able to comply as easily.

"I am self-employed with my own copier and my own resources and my own time," Henson said. "You know who this letter is going to disenfranchise."

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Ballot numbering under scrutiny in Ellis County
Bill Spinks
Waxahachie Daily Light
December 16, 2021
https://www.waxahachietx.com/story/news/politics/elections/2021/12/16/ballot-numbering-under-scrutiny-ellis-county/8935432002/

Ellis County's election system is secure, members of the Commissioners' Court were told during Tuesday's regular bi-weekly meeting as they peppered county elections administrator Jana Onyon with questions and heard public comments on election security across almost an hour and a half.

Onyon's assertions, though, didn't seem to assuage some members of the court as they seemed to lean toward reinstating sequentially numbered ballots for elections in the county.

Onyon told commissioners that ballots are numbered for security purposes so that they can be traced back to a polling location. The process dates back to legislation when hand ballots were still commonplace, but Onyon said the same process was kept even with technology advances.

A 2019 change to the balloting process allows for unused ballot stock to be reused in subsequent elections, which Onyon said resulted in significant cost savings — about $13,000 for the November 2020 election. The reason this is possible is because ballots are not numbered until the votes are cast with the electronic system Ellis County began using in May 2019. The system generates a 2-digit alpha code and a random serial number.

Several public speakers urged a return to sequentially numbered ballots and called into question the Texas Secretary of State's advisory allowing for non-pre-numbered ballots. Most cited what they said was lack of

confidence that votes were being securely counted, and said the money being saved wasn't worth the concern over security.

Onyon replied afterward that all guidance regarding the update originated from state legislation, and that all ballots that are placed in the tabulator are counted after they are filled out, regardless of numbers.

Onyon said voting equipment is routinely tested before every election. In the event that a voter is not satisfied with his or her recorded vote, that voter can request a new ballot and the old ballot is "spoiled." Onyon added that a rigorous count of all ballots — used, unused or "spoiled" — is kept at each polling site. All ballots are kept on file for 22 months following an election.

Voting devices are not connected to the internet, Onyon said. The laptop that checks in voters is the only computer that will be connected to the web, so that voters are able to be verified.

Precinct 3 Commissioner Paul Perry said he will ask County Attorney Ann Montgomery to research election statutes to find out if the allowance of random numbering has any basis in law, and bring an answer back for the Dec. 28 court meeting. Perry also said even though the Ellis County Elections Office is independent of the Commissioners' Court, the court does hold the budgetary purse strings for the office.

Precinct 1 Commissioner Randy Stinson said funding should be no object in the name of securing ballots.

"When it comes to elections, we have the money," Stinson said. "We need to put extra staff over there to implement the situation that we're trying to solve. I don't think any commissioner on this court would back off of that."

All court members were present.

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Column: Get set for the weirdest county commissioner race we've ever seen
Gilbert Garcia
San Antonio Express-News
December 16, 2021
https://www.expressnews.com/news/news_columnists/gilbert_garcia/article/Garcia-Get-set-for-the-weirdest-county-16708414.php

Let's say you're a politically active person living on the North Side and you've thought about running for county commissioner.

But the precinct in which you live (Precinct 3) didn't have another election scheduled until 2024, and, besides, it had a solid incumbent, Trish DeBerry, who just took office at the beginning of this year.

Given those circumstances, you recently filed to run for another office.

This must be a strange time for you.

On Monday afternoon, moments before the filing period closed for the 2022 Texas primary elections, DeBerry stunned political observers by filing paperwork to run for county judge. In doing so, she relinquished her Precinct 3 seat.

DeBerry's move triggered an obscure provision in the Texas Election Code, which states that if a vacancy occurs after the 10th day before the filing deadline, candidates have five days from the regular filing deadline in which to apply for the primary election.

In this case, that would have meant a Saturday deadline, but the Texas Secretary of State's office rolled the deadline over to Monday.

It has created one of the weirdest dynamics we've ever seen in Bexar County politics.

"People are struggling," said Jacque Callanen, the elections administrator for Bexar County. "Lots of phone calls will be made."

Callanen said some primary candidates for other offices have contacted her to inquire about switching to the Precinct 3 contest.

"They've said, 'Hey, if I'd known that, I wouldn't have filed for this slot. Can I withdraw from this slot now and run for that one?'"

The answer, of course, is they can't.

John Austin, the chairman of the Bexar County Republican Party, said no GOP candidates had filed for the Precinct 3 seat as of Thursday morning.

"I've talked to multiple individuals that are interested," Austin said. "People are just kind of mulling it over. It's so fast and whirlwind.

"A typical executive at one of the big companies in town might be interested in that at some point. But to have only four or five days to put everything in order, it's just not enough time."

There's also the issue of filing fees. Candidates for Bexar County commissioner have the option of paying a $1,250 filing fee or submitting 500 petition signatures.

In this case, however, with only a few days in which to gather signatures, Precinct 3 hopefuls will almost certainly have to cough up the $1,250 if they hope to get their names on the March 1 primary ballot.

It's worth considering that the race for Precinct 3 commissioner (a gig which pays nearly $138,000 a year) is operating on two tracks.

There's the behind-the-scenes jockeying to secure an interim appointment from Democratic County Judge Nelson Wolff (whose voice mail, as I write this, is probably filling up with flattery from ambitious local Republicans). That appointment will get you the job for about a year.

Then there's the election battle, which will secure the Precinct 3 seat for the winner until the end of the 2024 election cycle. This is a solid Republican seat and most of the real action will be in the GOP primary.

Here's what we know about the Republican race:

Former Councilman (and two-time mayoral candidate) Greg Brockhouse will be running. Seven months after getting smoked by a 2-1 margin in the mayoral election by Ron Nirenberg, Brockhouse sees the Precinct 3 seat as a prime opportunity for a political comeback.

Patty Gibbons, a long-time Republican activist who finished fifth in a 10-candidate North Side field for City Council in 2017, also plans to run.

In addition, there's a slew of prominent players in the local business community who are giving this race a look.

Grant Moody, the director of policy, strategy and innovation at Valero Energy, told me that he is "prayerfully considering whether this is the right time and right opportunity for me to serve our community."

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Moody majored in economics at the U.S. Naval Academy, served 10 years as a Marine F-18 pilot (including deployments to Afghanistan and Iraq) and received a gubernatorial appointment to the Texas Veterans Land Board.

Former Councilman Jeff Webster, the vice president of business development with Jacobs Engineering Group, said he is "putting it through the consideration process." A few months ago, Webster nearly entered the race for the Texas House seat being vacated by Lyle Larson, but decided he didn't want the aggravation.

Preston Woolfolk, the co-president of DOCUmation, said "he is giving it a lot of thought."

The tech executive added, "It's going to be a tight race, due to the timeline. That's a pro or a con, depending on who's looking at it. That's going to be the bigger conversation piece for everybody looking at it."

It's definitely a major conversation piece. And prospective candidates won't have much time to conduct those conversations.

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Texas AG Paxton's $2.2M voter fraud unit closed three cases in 2021. GOP lawmakers still boosted its budget
Taylor Goldenstein
Houston Chronicle
December 17, 2021
https://www.houstonchronicle.com/politics/texas/article/Texas-AG-Paxton-s-2-2M-voter-fraud-unit-closed-16708051.php

Texas Republican Attorney General Ken Paxton has been one of former President Donald Trump's most reliable allies in spreading the myth of widespread voter fraud, particularly in the 2020 election, and frequently boasts that few states are as vigilant.

His office's election integrity unit added two lawyers to the team in the last year, bringing it up to six staffers total, and worked more than 20,000 hours between Oct. 2020 and Sept. 2021. Its budget, meanwhile, ratcheted up from $1.9 million to $2.2 million during that time.

Yet records from the office show that the unit closed just three cases this year, down from 17 last year, and opened seven new ones. That includes the newly created unit focused on the 2021 local elections, which has yet to file a single case.

"This is an exorbitant amount of money that has resulted in no benefit for the average Texan," said Austin Evers, executive director of American Oversight, a left-leaning nonprofit government watchdog that regularly files public information requests and files suits to force compliance with those requests. The organization shared some records it obtained from the Texas attorney general's office with Hearst Newspapers for this report; others were obtained independently by Hearst Newspapers.

Evers added: "Taxpayers are funding a political stunt meant to fuel the false claim of a stolen election and justify voting restrictions."

The scant caseload comes after Texas Republican lawmakers insisted a 2020 election audit was necessary and passed a sweeping elections overhaul bill loaded with voting restrictions that Democrats have warned will have a disproportionate effect on already-marginalized voters.

Paxton's office has not uncovered any evidence of voter fraud in 2020 beyond isolated incidents affecting a handful of votes in an election in which more than 11 million Texans cast ballots.

Republican Gov. Greg Abbott, under pressure by former president Donald Trump, initiated reviews of election processes across the state in the fall.

Paxton's office did not respond to a request for comment for this story, but in a podcast his office produced in November 2020 about voter fraud, Paxton blamed low resources for the election integrity unit's output.

"I don't think anybody knows the degree to which it happens because even our office who probably prosecutes more election fraud than anyone else in the country ... We don't have enough resources to cover all election fraud. So it's really hard to know how large an issue this is because very few states put any resources in to actually detect or prosecute voter fraud."

It's a point he's made often before, though he's never offered specifics as to what kind of staffing or funding he would find sufficient.

Richard L. Hasen, an election law professor at the University of California Irvine, said there's a more likely explanation, noting that Paxton, who is running for re-election, has "every incentive," politically speaking, to vigorously go after voter fraud, as it's an issue that energizes his party's base.

"He's finding very little of it despite spending a lot of money and using a lot of resources looking for it," Hasen said. "The reason is not that such fraud is too hard to find. Those that commit voter fraud tend not to be brain surgeons. The reason he's not finding a lot of it is because voter fraud is rare."

Multiple academic studies and journalistic reviews have uncovered no evidence of widespread voter fraud, nor did a wide-ranging investigation of election fraud in 2020 conducted by the U.S. Justice Department.

After Texas' own director of elections Keith Ingram testified to lawmakers in March that the 2020 election was "smooth and secure," the Secretary of State failed to receive confirmation of her appointment by the Republican-majority state Senate and was forced to step down.

In one of the most comprehensive reviews to date, an AP analysis this month reviewed potential election fraud cases in six battleground states contested by Trump and found 475, nowhere near enough to have altered the results of his 2020 loss.

Paxton boasts of more voter fraud cases than ever
The biggest case closed this year by the Texas attorney general's office involved a Medina County resident who allegedly unlawfully assisted 10 voters with mail ballot applications during the 2020 election.

The other two were people in Lubbock and Guadalupe counties who allegedly made false statements on their voter registration applications and voted illegally in the 2018 election, and one of them also in the 2020 election.

In 2016, 2017 and 2019, Paxton's office also closed three cases.

Yet in a tweet in October, Paxton proclaimed that his office was "between pending cases & investigations — working more voter fraud cases than Texas has ever seen."

While it's true that the office has more cases pending this year over last year, 44 up from 38, that's not because of a surge in new prosecutions. It's because the vast majority of cases that were pending around this time last year are still making their way through the court system.

Among the cases pending include that of Hervis Rogers, a Black man from Houston who was charged this year with illegally voting while on parole, after he had made national headlines for waiting for six hours to vote in the 2020 primary election.

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TX-SOS-22-0155-B-001720

A new ruling from the state's highest criminal court Wednesday may afford legal relief to Rogers and potentially others, after it found that Paxton's office does not have the constitutional right to prosecute voter fraud without the consent of local prosecutors.

The office is also in the midst of investigating 386 allegations of fraud, according to its website, up by about 150 over what it reported it was looking into last year.

Paxton, members of his office and his supporters often use an unusual metric to tout the election integrity unit as a success, citing the more than 500 counts of offenses filed against defendants in pending cases, as opposed to the number of defendants, about 45.

This can prove misleading: An individual case can involve dozens of counts because the state's lawyers can file many different charges for the same action or set of actions. For example, a social worker in the Mexia State Supported Living Center was charged in October with two election fraud offenses for each of the 67 residents she registered to vote prior to the 2020 presidential election without their permission, landing her a total of 134 counts. No illegal votes were cast.

As has been the trend since the voter fraud unit began its work 15 years ago, the majority of defendants, including the three whose cases were resolved this year, have been entered into diversion programs. Those are alternatives to prosecution for low-risk, typically first-time offenders that often involve some court supervision.

Twenty-seven defendants, or 17 percent, were sentenced to deferred adjudication, which is a form of probation that gives the person a chance to avoid a criminal conviction on their record.

Under a third of defendants' cases ended in a conviction, and of those 46, a little over a dozen spent time behind bars.

The extensive use of these diversion programs makes it difficult for the public to find much information about the situations leading to the alleged crimes, which would typically be uncovered in court documents.

The Republican chairs of the committee in charge of writing the budget in the Texas House and Senate did not respond to questions about why funding increases to the election integrity unit continue to be approved despite its lack of results.

Democratic State Rep. Jessica González, vice-chair of the elections committee in the Texas House, called the spending unacceptable.

"It is clear the Election Integrity Unit receives an absurd level of funding considering their inability to find real cases of voter fraud, and this funding increase only continues to fuel their witch-hunt," González said.

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Lawsuit alleges Harris County Democrat's map disqualifies some voters for six years
Bethany Blankley
The Center Square
December 16, 2021
https://www.inforney.com/texas/lawsuit-alleges-harris-county-democrats-map-disqualifies-some-voters-for-six-years/article_3c985955-ef94-5c4a-8175-d284a759c5ae.html

(The Center Square) – Three Harris County voters and two Republican County Commissioners have sued Democratic Harris County Judge Lina Hidalgo and Harris County for a redistricting plan proposed by a Democratic commissioner, alleging it unconstitutionally disenfranchises more than one million voters in next year's county elections.

Harris County is the largest county in Texas with 4.7 million residents, according to 2020 Census data. Roughly half, or 2.48 million residents, are registered to vote, according to the Texas Secretary of State's office, with 1.63 million having voted in the 2020 General Election.

The lawsuit filed in U.S. District Court in Harris County asks the court to issue a temporary restraining order and/or temporary or permanent injunction against the judge and county from implementing the redistricting plan.

The Commissioner's Court is comprised of four commissioners representing four districts, and the county judge. Two commissioners are Democrats (Precincts 1 and 2), two are Republicans (Precinct 3 and 4) and the judge is a Democrat.

The redistricting map proposed by Democratic Commissioner Rodney Ellis, known as the "Ellis Plan 3," would redraw the lines in such a way to ensure that Democrats would hold a supermajority on the court because it would likely eliminate one of the Republican districts.

Harris County Republicans argue the Democrats' goal is to eliminate a Republican from the court to ensure a Democratic supermajority. One way to do this is to take advantage of a stipulation in the Texas Constitution that states that elections for county commissioners, who serve four-year terms, must be staggered every two years.

Ellis' plan redraws the district lines so much so that it moves 1.1 million voters from even-numbered to odd-numbered voting precincts—thereby eliminating their ability to vote in at least the next election.

For example, under the state constitution's staggered election process, residents of Precincts 2 and 4 will vote in 2022; residents in Precincts 1 and 3 will vote for their commissioners in 2024. Voters in Precincts 2 and 4 would vote again in 2026, and voters in Precincts 1 and 3 in 2028.

Under Ellis' plan, his Precinct 1 would remain largely unchanged.

But Cagle's Precinct 4 would absorb the northeastern portion of the existing Precinct 2, and the northwestern portion of the existing Precinct 3.

Precinct 4 would include Katy in west Harris County, and Baytown in East Harris County, which are at least an hour apart without traffic.

Some of the Precinct 4 residents would also be moved to an odd-numbered precinct, and not be able to vote until 2024. If the district weren't redrawn, they'd be voting in 2022.

And the newly chopped up Precinct 4, historically a Republican stronghold, would be transformed enough to become a Democratic precinct. Then, the 3-2 Democrat-Republican court would become a 4-1 Democratic-controlled court.

"The Ellis map moves over a million Harris County voters who did not get to vote for commissioner last year to a new precinct where they won't get to vote for commissioner next year, either," Alan Vera, a conservative leader within the Harris County Republican Party and plaintiff in the lawsuit, said in a Houston Public Media report. "Those voters will have gone six years without the right to vote for a county commissioner, when they're entitled to vote for commissioner every four years."

"Democrats on Commissioners Court were so intent on padding their 3-2 majority that they callously and intentionally trampled on our clients' sacred right – the right to elect their government officials and to participate in the electoral process," the plaintiffs' attorney Andy Taylor said in a statement when announcing the lawsuit.

Officials are required to set district lines every 10 years according to new census data, to ensure "one person, one vote" proportionality. County precincts are required to be drawn with no more than a 10% population deviation.

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While courts have historically upheld partisan redistricting plans, Taylor argues the districts can't be redrawn "in a manner that violates the constitutional rights of voters in those precincts."

He and the plaintiffs' other attorneys prepared an alternate redistricting map that they argue is constitutionally valid, and only moves a fraction of the number of voters compared to those moved by Ellis' plan.

Judge Hidalgo maintains the plan is legal, as does Harris County Attorney Christian Menefee. He says the county "ran a transparent and thorough redistricting process" and the map the court adopted "complies with Texas law."

Ellis has argued that Harris County was previously gerrymandered by Republicans, and that his map corrects that.

"Our plan seeks to keep communities of interest together and bring together areas that have been split apart for years," Ellis said. "For too long this county has been intentionally divided by precinct boundaries that deny people the opportunity to elect representation that accurately reflects the views of the majority of our communities. The boundaries proposed cease that continued suppression, and allows the voices and views of the people to be reflected by those who represent them."

Republicans argue the opposite.

If the court grants their request for injunction and directs the commissioners court to go back to the drawing board, and if the commissioner's court fails to adopt an acceptable redistricting plan in time for the March primaries, the county could use the current map or the plaintiffs' map for the 2022 election cycle.

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Redistricting changes raises tension in Texas before elections
Christian Del Rio
KGNS-TV
December 16, 2021
https://www.kgns.tv/2021/12/16/redistricting-changes-raises-tension-texas-before-elections/

LAREDO, TX. (KGNS) - Texas Governor Greg Abbott approved the new political map for redistricting for the State of Texas.

Critics of the new maps say the changes made will benefit Republican candidates keeping them in office for the next decade.

They also believe the new maps could deny the voting rights of Latino and black voters.

The Webb County Democratic Party Chair Silvia Bruni believes it's a move by the Republican Party to hold on to whatever opportunity or advantage they might have, and they particularly targeted counties that have strong democratic demographics.

Bruni encourages everyone to register to vote before it's too late and reminds you to please go out and vote when the time comes.

The new map will be in effect for next year's primary and general elections.

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Texas Democrats eye redistricting fights in state court as federal suits over gerrymandering mount

Sami Sparber
Dallas Morning News
December 16, 2021
https://www.dallasnews.com/news/politics/2021/12/16/texas-democrats-eye-redistricting-fights-in-state-court-as-federal-suits-over-gerrymandering-mount/

AUSTIN — As federal lawsuits over new political maps pile up, some Texas Democrats are focusing on a pair of state court cases, arguing this year's GOP-led redistricting effort violated the Texas Constitution.

The Legislature's GOP mapmakers in October passed new lines that cement Republicans' grip on power for the next decade but blunt the voting strength of nonwhite voters who fueled Texas' population surge.

In two cases heard Wednesday and Thursday, a group of mostly Democratic, Hispanic lawmakers from both chambers challenged the legality of when and how Republicans drew the boundaries.

"All we're asking is for Republicans, who claim to be constitutionalists, to start acting like it, and follow the plain meaning and reading of the Constitution," said Roland Gutierrez, one of two Democratic state senators who are suing Texas.

Focusing on the timing are Gutierrez and Sen. Sarah Eckhardt, who sued to block the Legislature from redistricting in a special session this year. Also at issue are rules for keeping counties intact when drawing Texas House districts.

Similar to a suit they filed in federal court before redrawing began, the senators' attorneys argued the Texas Constitution requires that redistricting be done in a regular session that won't happen until 2023.

That makes the newly drawn state House and state Senate plans invalid, argued the legal team for Gutierrez and Eckhardt, of San Antonio and Austin, respectively.

The senators' lawyers pointed to a provision in the state Constitution that requires the redistricting process to start in the first regular session after the decennial Census has been published, asking the court to block the new plans from being used.

State lawyers argued the provision does not prohibit apportionment at other times, and warned that blocking the map will disrupt the 2022 election process that is already in motion.

"The Legislature … is perfectly free to redistrict whenever it wants," Will Thompson, the attorney general's deputy chief for special litigation, said at the Dec. 15 hearing in district court in Travis County.

All parties face a tight timeline for the March primaries. Overseas mail-in ballots are set to go out Jan. 15, and candidate filing ended Dec. 13.

But the court fights are not uncharted territory. The senators' attorney, Wallace B. Jefferson, pointed out that for decades, every Texas redistricting plan has been either changed or tossed out by a federal court after being found in violation of the U.S. Constitution or the federal Voting Rights Act.

Texas argues "chaos will ensue if the court were to enjoin the maps, but the sky will not fall if that's what the court decides," said Jefferson, former Texas Supreme Court Chief Justice and Republican from San Antonio.

The consolidated cases have been assigned a panel of three district court judges, with Democrat Karin Crump presiding, alongside Republicans Emily Miskel and Ken Wise.

Splitting Cameron County

AMERICAN OVERSIGHT

The senators' legal team also argued the new state House map violated the "county line rule" of the Texas Constitution, which requires that counties with sufficient population be kept intact in drawing Texas House districts.

The second challenge, mounted by the Mexican American Legislative Caucus in the Texas House, made a similar case that the rule was broken, arguing it was designed to ensure people have local representation.

Both complaints focus on the redrawing of Cameron County in the Rio Grande Valley.

As lawmakers this fall debated the new House lines late into the night, they narrowly adopted a major change in South Texas. House District 37 was redrawn from a seat President Joe Biden won by 17 percentage points, to a seat the president won by only two points over former President Donald Trump in the 2020 election.

That amendment, developed by Kingsville Republican Rep. J.M. Lozano, was denounced by some Valley lawmakers. State Rep. Eddie Lucio III, D-Brownsville, called the change a "disingenuous, last-minute attempt to do a grab."

The plaintiffs' legal team argued the county line rule requires that two districts be wholly contained within Cameron County. Yet Lozano's tweaks give Cameron County just one wholly contained district, with two that connect to adjoining counties.

The state's lawyers argued the new boundaries do not dilute votes in Cameron County, and that Cameron got the number of districts it was constitutionally entitled to. The plaintiffs' attorney rejected that interpretation of the rules.

"There is no doubt that to whatever extent Cameron County voters are a cohesive group … they get to elect the candidates of their choice," said Thompson, one of the state's lawyers.

District 37 Democratic candidate Ruben Cortez Jr. joined the senators' suit, along with political organization Tejano Democrats. The new version of the district was joined with adjacent Willacy County.

"This Republican redistricting scheme is robbing the voice of Cameron County voters," Cortez, also a member of the Texas State Board of Education, said in a news release.

The caucus' complaint asked the court to block the Texas House map from being used in upcoming elections and allow for the creation of alternative boundaries. Both sides discussed a full trial beginning Jan. 10.

It's unclear, if the judges rule in favor of the plaintiffs on the county line rule, whether they would delay Texas House primary elections just for South Texas, or the entire state. The plaintiffs' legal team asked the court to delay the primary to May 24.

Thompson, the state lawyer, said he expects the 2023 Legislature to have to revisit the maps.

In a separate federal suit, MALC has argued the redrawn congressional, Texas House and State Board of Education maps are intentionally racially discriminatory and dilute Latino voting strength, in violation of the federal Voting Rights Act and U.S. Constitution.

The U.S. Department of Justice has joined the federal court fight, suing to block Texas' gerrymandered congressional and state House maps. Several civil and voting rights groups, as well as individual voters, are among the plaintiffs in the consolidated federal redistricting cases.

Court challengers say the redrawn congressional, legislative and State Board of Education maps do not reflect the major growth of the Hispanic community, which made up nearly half of the state's population gain since 2020. People of color accounted for 95% of the state's population boom over the last decade, with much of the growth concentrated in cities and suburban areas, census data show.

AMERICAN OVERSIGHT

In the plan for state House elections, the number of majority-white seats increased from 83 to 89, among eligible voters. The number of majority-Hispanic districts grew from 33 to 30, and the number of majority-Black districts dropped from seven to six. Asian voters remain without majority control in any district.

The decennial process following a U.S. Census typically leads to lawsuits in Texas, with the courts largely siding with Republicans in recent years. Lawmakers can draw maps in a way that benefits their party's political future as long as they do not discriminate on the basis of race.

This year, Republican lawmakers have a clearer path toward using the lines they want, as Texas is no longer required to get federal approval on new political maps.

The new maps are generally expected to withstand lawsuits, but battles over aspects of the boundaries could last several years.

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How Out Texas Rep. Celia Israel Put Voting Rights First in 2021
Trudy Ring
The Advocate
December 16, 2021
https://www.advocate.com/exclusives/2021/12/16/how-out-texas-rep-celia-israel-put-voting-rights-first-2021

Celia Israel, a member of the Texas House of Representatives, stood for her principles this year even though it meant personal sacrifice. She was set to marry her partner of 26 years, Celinda Garza, on the House floor July 15, but she ended up leaving Texas for Washington, D.C., three days earlier with more than 50 other House Democrats so there would not be the number of representatives required to vote on a Republican-backed voter suppression bill. They returned eventually, though, and a later version of the bill passed. But Israel doesn't regret her action one bit.

"This summer, I was part of something larger than myself when my colleagues and I broke quorum in defense of voting rights and took the fight to Washington, D.C.," she says. "During a year in which Texas was reeling from the effects of a polar vortex that killed hundreds and a pandemic where nearly 70,000 Texans have needlessly lost their lives, I've stood firm to call out the misplaced priorities of the Texas legislature, where our democratic institutions, reproductive rights, and the LGBTQ community have been targeted."

"I fight for everyone who knows rather than using transgender children as political piñatas to placate 5 percent of the electorate, we should be working together on solutions to the gaps in our health care and infrastructure," she adds. "What is happening in our politics today is a stain on the state that I love. What motivates me are the young voters and people of color who know what's happening now in Texas and around the country is not normal and who are making their voices heard."

Israel is now being motivated to seek a different office. She announced in September that she will not seek reelection to the House, where she has represented an Austin district since 2014, and will instead consider a run for mayor of the Texas capital next year. The current mayor, Steve Adler, cannot run again due to term limits. She has formed an exploratory committee with a diversity of members.

And Israel and Garza will have their wedding. They're planning a Texas-size ceremony and party for next spring.

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Arlington approves redrawn council districts that some say dilute Black, Latino voting power
Kailey Broussard
KERA News

December 16, 2021
https://www.keranews.org/government/2021-12-16/arlington-approves-redrawn-council-districts-that-some-say-dilute-black-latino-voting-power

Arlington's new city council districts give slightly more voting power to voters of color, but NAACP and LULAC leaders said they do not reflect its diverse communities.
Arlington city council approved redrawn voting districts this week that some civil and voting rights groups say do not reflect growth in Black, Hispanic and Latino communities.

Council members gave final approval Tuesday to a map that redraws four of the city's five single-member districts to more evenly split Arlington residents. The city-appointed redistricting task force selected the map as the best of five put forward — three from Bojorquez Law Firm, two from residents and community groups.

The approved map moves voters in the area between North Bowen Road, West Sanford Street, Oakwood Lane, and West Randol Mill Road/Westwood Drive from District 1 to District 4. District 3 residents in the boundaries of East Arkansas Lane, New York Avenue, Sherry Street, and East Mayfield Road will become part of District 5. The maps give slightly more voting power to Hispanic and Latino voters in District 1 and to Black and African-American voters in districts 3 and 5.

The 7-1 vote was the last needed to finalize the new districts ahead of municipal elections in 2022 when residents will decide four city council seats. Ruby Faye Woolridge, at-large District 6 council member, voted against the map.

Woolridge applauded the redistricting task force's efforts and formation; the group marks the first time a community board formally advised city council during the redistricting process.

"I'm very grateful for that and I look forward to the future and the progress that will continue to be made," she said.

Mayor Jim Ross was absent from the meeting.

The final vote followed months of criticism from local NAACP and LULAC chapters, whose leaders claimed the redistricting task force and council upheld districts that dilute voices in communities of color.

"Same old, same old"
Luis Castillo, president of Arlington LULAC, said the city has historically protected incumbents who, until recent years, have been mostly white. Castillo argued the same interests caused the city to gravitate from eight at-large council members to five single-member districts and three at-large members.

"It's a continuation of the same old, same old," he said.

Castillo's group and Arlington NAACP submitted a map that stretched District 4, a majority-white voting district, to cover northwest Arlington, including Viridian, the city's master-planned community composed of upscale housing developments. The leaders have opposed the task force-recommended map, and defended their submission, drawn in a manner that would give communities of color more voting power in the city's northern, southeast and eastern regions — districts 1, 3 and 5, respectively.

Alisa Simmons, Arlington NAACP president, told council members Dec. 7 the city's 8% population growth between 2010 and 2020 was "entirely driven by Arlington's communities of color." The 2020 census put Arlington's population at 394,266, making it the 50th largest city in the United States.

"When combined, these groups can together constitute a majority of the city's voting age population in possibly three districts," she said.

Attorney Rezzin Pullum with Bojorquez Law Firm told council the same day the groups' map did not fall in line with two city-instituted requirements for redistricting: that the new lines do not alter district shape as much as possible or draw sitting council members out of their districts. The NAACP and LULAC map would have cast District 1 Council Member Helen Moise into District 4, a majority-white district.

Stephanie Swanson with the League of Women Voters of Texas
said the NAACP and LULAC map did a better job of upholding section 2 of the Voting Rights Act, which prohibits practices that discriminate against race, color or languages spoken by voters.

"Preserving incumbency is a very problematic redistricting criteria to adopt," Swanson said. "There is no federal law stating that incumbents must be protected."

Bojorquez Law Firm reviewed the concerns Swanson and the groups raised during redistricting and did not find issues that would open the city to legal action, city staff said.

Incumbents' power diminished?
Moise said the term limits for mayor and council seats that voters approved in 2018 temper concerns that incumbents can leverage redrawn lines. Moise can run for one more council term under limits that confine candidates to 12 years in office, or three two-year terms holding any council seat or serving as mayor.

In her first two races, Moise said, she ran against Black or African-American candidates, and she won support from communities of color for her work to support neighborhoods. Moise was first elected in May 2018 and re-elected in November 2020.

"I love District 1; I've lived in it for 38 years," she said. "In both of my elections, I ran a campaign that said I would serve every single person in my district, and my district listened."

Moise's seat is one of four voters will decide in 2022, when the new districts go into effect. Raul Gonzalez, who represents southwest Arlington in District 2, announced he will run for re-election. Arlington voters will select two new at-large council members, as Victoria Farrar-Myers, District 7, is being termed out, and Woolridge announced she will run for Tarrant County commissioner's court.

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Court tells Texas AG, "Nah," On Election Prosecutions
Keith Reed
The Root
December 16, 2021
https://www.theroot.com/court-tells-texas-ag-nah-on-election-prosecutions-1848229952

A high court in Texas smacked down the state attorney general's argument that he can prosecute election offenses all by himself. The ruling means that Attorney General Ken Paxton, a Republican Trump supporter, loses a potentially powerful tool in his party's voter suppression campaign.

The Court of Criminal Appeals, Texas' highest authority on criminal cases, ruled on Wednesday that Paxton can't barge in on local criminal cases involving elections, such as possible instances of voter fraud or campaign finance violations, according to the Texas Tribune. Instead Paxton has to get the OK from a local prosecutor before he sticks his nose in.

From News 4 San Antonio

In its opinion, the Court of Criminal Appeals overturned a lower-court ruling that said the election code provision "clearly and unambiguously gives the Attorney General power to prosecute criminal laws prescribed by election laws generally whether those laws are inside or outside the Code."

Rather, the Court of Criminal Appeals said, “the Attorney General can prosecute with the permission of the local prosecutor but cannot initiate prosecution unilaterally.”

In his tweet, Paxton said the ruling means “Soros-funded district attorneys will have sole power to decide whether election fraud has occurred in Texas.” That is a reference to George Soros, the Democratic megadonor who has become a force in local prosecutor elections.

In short, Paxton thought he could overrule local district attorneys when he didn’t like their decisions on who to haul into court, or who not to, over elections. By an eight-to-one margin, a panel of Republican judges told him no.

It’s an important ruling because in Texas and many other states, some GOP officials have passed shady new laws designed to shrink voting rights in the wake of Donald Trump’s failed attempt to hold onto the presidency. Those laws were cooked up based on the Big Lie of rampant voter fraud in the 2020 election. Handing Paxton the green light on who to charge with election crimes presented the opportunity use the office to his or his party’s political advantage.

Texas is already being sued over new voting restrictions its Republican governor and legislature put in place, as well as a gerrymandered voting map.

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Controversial businessman with Dallas ties sees renewed fame as election 'expert'
Bret Jaspers
KERA News
December 16, 2021
https://www.keranews.org/politics/2021-12-16/controversial-businessman-with-dallas-ties-sees-renewed-fame-as-election-expert

Longtime Dallas businessman J. Hutton Pulitzer once promoted triple-edged wiper blades and a device called the CueCat that found a spot in the Museum of Failure. More recently, he’s tried to sell something else – allegations of election fraud.

The New York Times is reporting former President Trump’s final chief of staff Mark Meadows submitted a PowerPoint to the congressional committee investigating the Jan. 6 insurrection. That PowerPoint, the Times says, “is similar to a 36-page document available online, and it appears to be based on the theories of Jovan Hutton Pulitzer, a Texas entrepreneur and self-described inventor.”

Pulitzer, also known as Jovan Philyaw, attained fame – or perhaps infamy – when he convinced several companies in the late 1990s to invest in the CueCat, a much-derided computer accessory. If you haven’t heard of Pulitzer, here are some important things to know:

- **CueCat.** *Time* magazine ranked it Number 5 on a list of the 50 worst inventions of all time. A 2001 article in the Wall Street Journal summed it up: “a hand-held, cat-shaped scanner that attached to a PC. Hold it up to the bar code in an ad or catalog or a can of soup, and your computer whisks you to a web page connected to the product.”
-

Radio Shack reportedly invested $30 million; *The Dallas Morning News* invested even more than that. People didn’t take to it, and the legacy of CueCat is that of a humorous, expensive waste.

- **Georgia's 2020 election.** In their efforts to support Trump's effort to overturn the 2020 election, conservative legislators in Georgia called Pulitzer as an expert witness. In December 2020, Pulitzer spoke before the Georgia state Senate, according to The Verge.

But the Georgia Secretary of State's office discredited his claim he had hacked into a poll pad, noting Pulitzer provided no evidence. Secretary of State Brad Raffensperger, a Republican, excoriated the state lawmakers who invited Pulitzer to speak and described him as a "failed treasure hunter."

"Fake news is hard enough to combat when mainstream media outlets push it out, but when a small cadre of Georgia legislators do it, it's a whole different story," Raffensperger said.

- **Maricopa County's election "audit."** Maricopa County is home to Phoenix and is the second-largest voting jurisdiction in the United States. The Arizona state Senate hired a firm with no prior election experience to conduct a much criticized "audit" of the county's 2020 ballots. The Arizona Mirror reported auditors used Pulitzer's technology to examine the ballots, but Pulitzer said he was unable to discuss his past experience reviewing ballots because of a nondisclosure agreement. County officials said the audit's final report included falsehoods about elections there.

Trump also called on Texas to conduct an audit of the 2020 election, and Gov. Greg Abbott complied.

Experts say claims about election fraud that are not backed up with facts and evidence undermine faith in elections and the voting process.

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Nevada county where Trump won to replace voting machines
Sam Metz
Associated Press
December 16, 2021
https://www.fox5vegas.com/election_hq/nevada-county-where-trump-won-to-replace-voting-machines/article_610271e7-4b6a-5afa-a97b-55852bffbcac.html

CARSON CITY, Nev. (AP) — Local officials in rural Nevada decided on Thursday to replace equipment manufactured by Dominion Voting Systems — a sign that unsubstantiated concerns about election machine tampering are still prevalent more than a year after the 2020 election.

In Lander County, population 5,734, commissioners approved $223,000 in spending for new ES&S voting machines and $69,000 for maintenance, installation and training. ES&S equipment is federally certified and used throughout the country, including in Carson City.

The equipment will replace Dominion's suite of voting equipment, which was the subject of conspiracy theories in the aftermath of the 2020 election, with Trump campaign attorneys suggesting without evidence that the company's equipment had ties to Venezuela, George Soros and Antifa.

Those claims have been largely debunked. News networks that promulgated them have faced defamation lawsuits. But Lander County residents continued to claim that Dominion's equipment swayed the election results in comments to the commission over the past several months.

The commissioners decided to replace Dominion equipment after outgoing County Clerk Sadie Sullivan, who oversees local elections, told them in October that the company had been a reliable partner. They said their scrutiny of Dominion machines wasn't because they thought Lander's elections was victim to foul play, but because they weren't sure about the machines elsewhere.

Though Trump won nearly 80% of the vote in Lander County, commissioners have considered an Arizona-style voting machine audit and earlier this year floated a proposal to hand-count ballots in future elections.

Sullivan told commissioners that it would be difficult under state law and their contract with Dominion to seize the machines and said hand-counting can lead to inaccuracies and human error.

Commissioners in Elko County are also considering new voting machines. Republicans there also say they're confident in local results, but worry about election tampering in other places where Dominion equipment is used and believe replacing them may rebuild public trust.

Republican Secretary of State Barbara Cegavske has said the results in Nevada — where President Joe Biden won by 33,596 votes — were accurate and reliable.

In Nevada, electronic voting machines are certified by the federal government and required to run on closed systems to prevent hacking and cyberattacks. Touch screen voting machines are required to print a paper audit, which is then scanned and counted by another machine.

Lander County commissioners scuttled their hand-count proposal. Officials also chose Molly Gonzalez, a county employee, to succeed Sullivan, who is among a growing list of local election officials who have announced plans to leave their posts.

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Yes, many noncitizens can now vote in New York City, but only in municipal elections
Mauricio Chamberlin and Kelly Jones
KCEN-TV
December 16, 2021
https://www.kcentv.com/article/news/verify/elections-verify/yes-many-noncitizens-can-now-vote-in-new-york-city-but-only-in-municipal-elections/536-cc003481-0648-48e0-8a7f-a2c769d4f998

On Dec. 9, the New York City council voted to allow DACA recipients, green card holders and people with work permits to vote in the city's municipal elections. The bill passed 33-14 with two abstentions, according to council records.

After the bill passed, the hashtag #OurCityOurVote trended on Twitter, but not everyone was pleased with the approval. New York Senate GOP leader Rob Ortt issued a joint statement with fellow Republican Sen. Andrew Lanza, calling it a "blatant disregard for our Constitution."

After news of the change to New York City voting laws broke, VERIFY audience member Betty emailed: "Is this true? In New York City, the bill — passed 33-14 — will allow almost 900,000 immigrants to vote, including DACA recipients, green card holders, and anyone with a work permit."

THE QUESTION
Can DACA recipients, green card holders and people with work permits now vote in New York City?

THE SOURCES
- New York City council records
- Joint statement from New York senators Rob Ortt and Andrew Lanza
- Ralina Cardona, League of United Latin American Citizens

AMERICAN OVERSIGHT

THE ANSWER

Yes, it is true that DACA recipients, green card holders and people with work permits can now vote in New York City municipal elections. This law does not allow these groups to vote in statewide or federal elections, and does not apply to undocumented individuals and people who don't live in New York City.

WHAT WE FOUND
According to records from the New York City council, the bill that passed on Dec. 9 "would provide a process for individuals in New York City who are lawful permanent residents or are authorized to work in the United States to vote in municipal elections." Sources estimate this applies to between 800,000 and 900,000 residents of New York City who are DACA recipients, green card holders or people with work permits.

This bill does not apply to statewide or national elections, such as the presidential election.

The joint statement released after the Dec. 9 vote from New York Republican senators Rob Ortt and Andrew Lanza said the move was a "slap in the face to every law-abiding American citizen who values the sacred right to participate in our democracy, and is the latest attempt by New York Democrats to destroy the sanctity of our elections for their own political purposes."

It also said they are confident a legal challenge to the bill will be successful.

Ralina Cardona, Northeast regional vice president for the League of United Latin American Citizens, said she would not be surprised if opponents of the bill try to take it to court, but added that right now is an exciting time in history for New York City voters.

"We know many Latinos, many immigrants are essential workers. They kept this city alive, they kept the city fed, they kept the city safe and healthy. So, for me, it is exciting, because that's what this country began on taxation without representation. And they said, 'Well, wait a minute, we should be able to pick and choose who will be representing us.' And they pay their Social Security taxes. They go to the supermarket, they're paying taxes on their gas, they're paying taxes on their food, they're paying taxes on everything. So once again, it is exciting," she said.

New York City isn't the first major city to allow noncitizens to vote. In 2018, San Francisco became the largest U.S. city at the time to pass a measure allowing noncitizens to vote in local elections, but it also doesn't apply to statewide or federal elections.

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Biden met virtually with U.S. senators to discuss voting rights bill
Reuters
December 16, 2021
https://www.reuters.com/world/us/biden-met-virtually-with-us-senators-discuss-voting-rights-bill-2021-12-16/

WASHINGTON, Dec 16 (Reuters) - President Joe Biden and Vice President Kamala Harris met virtually with lawmakers in the U.S. Senate to discuss the voting rights bill on Thursday, White House spokesperson Karine Jean-Pierre told reporters.

On Wednesday, Biden said no domestic priority is "more important than voting rights," even as the Senate is scrambling to pass his signature social spending bill, raising the stakes for a last-minute push to pass voting rights bills before the U.S. Congress returns home for Christmas.

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Voting rights advocates hold hunger strike near White House

AMERICAN OVERSIGHT

Ellie Silverman
Washington Post
December 17, 2021
https://www.washingtonpost.com/dc-md-va/2021/12/17/dc-protest-hunger-strike-voting-rights/

They tried to do this any other way.

For months, they listened to Democrats talk about passing voting rights legislation over Republican objections. They wrote emails, canvassed and called lawmakers, urging them to protect the country's democracy. They saw other liberal protesters marching in the nation's capital all summer, getting arrested to bring attention to their fight.

None of it, they said, seemed to be enough.

So last week in Phoenix, a group of 20 college students and recent graduates stopped eating.

In starving themselves, they hoped politicians at the U.S. Capitol and White House would finally act with the urgency they say this crisis of democracy demands.

"We'd rather suffer through this hunger strike than to suffer the consequences of this bill not being passed," said Brandon Ortega, a third-year student at Arizona State University who has not eaten since the hunger strike began Dec. 6. "We're really committed to hold out as long as we can."

The group planned to stay outside the state Capitol in Phoenix, and focus their pressure on Sen. Kyrsten Sinema (D-Ariz.) to support passing the Freedom to Vote Act, a federal voting rights bill. But to their surprise, Sinema spoke with them on Day Four. They left that meeting thinking their message needed to be elevated.

On Day Five — Friday — they flew to Washington, where new hunger strikers who heard about their protest joined them outside the White House. The group is demanding that Democrats pass federal voting rights legislation before next year, amid concern over the 2022 midterm elections.

But by Day Nine — Tuesday — their bodies seemed to be shutting down.

Too weak to walk long distances, they used wheelchairs to get to their protest spot at Lafayette Square. One hunger striker said it felt like knives were poking at her stomach. Another said she had lost more than 10 pounds. Others had to stop fasting on the advice of a doctor who checks their vital signs twice a day.

But those who were able to continue kept showing up, encouraging each other to drink water, rest and finish college assignments.

"I think my body's just kind of like giving up on me a little bit," said Emma Shockley, an 18-year-old freshman at the University of Pennsylvania. "It's kind of sad that we have to do what we're doing, but … we're willing to do whatever it takes."

The students are part of un-PAC, which describes itself as a nonpartisan advocacy group launched in March that employs student organizers and whose first campaign has been to pressure legislators to pass federal democracy reform legislation.

As they struggled through Day Nine, the activists received a boost from some Texas state legislators they admire: Reps. Trey Martinez Fischer (D-San Antonio), Gina Hinojosa (D-Austin) and Jasmine Crockett (D-Dallas), who is running for Congress.

"Don't think people are not paying attention because they are. Don't think for a minute that you're not making an impact because you are," Martinez Fischer told the demonstrators.

He was among the Texas Democrats who broke quorum in May to block the passage of a restrictive voting bill. That group flew to Washington to turn up pressure on President Biden and Congress to pass federal voting rights protections to override the restrictions that Republicans in Texas and other states were trying to pass.

“When the history book is written on Freedom to Vote, and on the John Lewis Advancement Act, President Biden is signing those proposals into law, we’re all going to have a chapter in that story,” he said, “and yours is happening right now.”

Kyla Frank, 23, nodded as she listened, her hands clasped atop a pink journal detailing the hunger strike. As she flipped through the pages, she pointed out notes of solidarity from speakers who encouraged the group throughout the hunger strike.

Frank has participated in the hunger strike since Day One and has been drinking about 5 liters of regular water and three bottles of electrolyte-enhanced water per day. By Day Three, she felt like she was “hit by a train.” She has lost 13 pounds.

She said she is motivated to stand up for voting rights after watching her mother work so hard to care for her and her siblings.

“A lot of the struggles that she faced are a direct result of corruption in our politics that prevents our government from protecting people who are most vulnerable,” said Frank, a graduate of the Duke Ellington School of the Arts in the District and Virginia State University.

In the last presidential election, she voted for Biden, hoping that he would fix a system she viewed as broken.

“He promised a lot of things,” Frank said. “If any of those promises are going to be seen this year, next year, we need to prioritize voting rights so people can have a pathway to getting those issues across the finish line.”

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Fox’s worst week? Dominion ruling adds to drumbeat of bad news for the network
Brian Stelter
CNN Business
December 16, 2021
https://kvia.com/news/2021/12/16/dominion-voting-wins-key-decision-in-lawsuit-against-fox-news-2/

On Sunday the Fox News Channel’s news facade was chipped away when Chris Wallace decamped to CNN. On Monday the hypocrisy of Fox’s biggest stars was highlighted by a bipartisan House committee. On Tuesday the network belatedly and weakly defended itself. And the week wasn’t even half over yet.

On Wednesday Fox’s social media team was forced to delete an antisemitic cartoon after advocacy groups shamed the network. And today, Thursday, Fox was set back in court in a big way. As Katelyn Polantz reports here, “a judge in Delaware has found that Fox News’ coverage of election fraud after the 2020 election may have been inaccurate, and is allowing a major defamation case against the right-wing TV network to move forward.”

“The ruling will now allow Dominion to attempt to unearth extensive communications within Fox News as they gather evidence for the case, and the company may be able to interview the network’s top names under oath,” Polantz explains.

For that reason, some media writers are speculating that the network will now try to settle, lest it be subjected to the embarrassment of the discovery process. “Fox loses the key motion; cases often settle at this point,” Ben Smith tweeted, “and a settlement here would likely be a big number. It’s a very strong case.”

On the other hand, Dominion wants to have its name cleared, and a confidential settlement might not seem sufficient.

“At this stage, the court must assume Dominion’s claims about Fox News are true,” Polantz writes. Still, the judge’s 52-page opinion noted that Fox “may have slanted its coverage to push election fraud, knowing the accusations were wrong.”

“Sold their souls”
“Wrong” has been a throughline in the outside coverage about Fox this week. As the network’s ranks of reporters shrank and conspiratorial ranters grew, Wallace decided not to re-up his contract. Fox’s court jester ridiculed him on the way out.

“There’s a good chance Wallace had enough of being on the wrong end of conservative wrath,” the former Fox analyst Bernard Goldberg wrote for The Hill on Thursday.

Goldberg, who was a regular on Bill O’Reilly’s show back in the day, quoted an email from a “wise, conservative friend” of his. The launch of Fox was “great for journalism and great for the country,” this person said, but then Fox “sold their souls to … Trump and they’re too damn stupid to realize the damage they’ve done to the conservative cause they claim to espouse.”

That damage includes the Big Lie, hyped by some of Fox’s biggest stars, and now the subject of Dominion’s lawsuit…

A counterpoint about Fox’s loyal audience
The Dominion lawsuit is a legitimate and potentially very costly problem for Fox. But all the rest of the noise surrounding the network may be negligible. Fox viewers aren’t hearing analysis of Wallace’s exit or why it’s such a blow to the Fox brand. They aren’t hearing criticism of Sean Hannity and Laura Ingraham’s urgent texts to Mark Meadows on 1/6. They are hearing that Liz Cheney and her Democrat friends are illegitimate. They are hearing that “cancel culture” forces are trying to hurt Fox. Think about it, what will Fox viewers remember about mid-December 2021? That a criminal tried to burn down Fox’s artificial Christmas tree. And that Fox proudly lit up a new tree the very next day.

Fox’s ratings tell the story: The biggest shows on Wednesday were “Tucker Carlson Tonight,” with 3.46 million viewers, and “The Five,” with 3.26 million. Both shows have more than ten times as many viewers as Newsmax at the same hour. If I know anything about Fox insiders, based on my reporting work for “Hoax,” they would say they are not having a bad week at all, they are having a very successful week…

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Opening of Texas-Mexico border boosts holiday retail in San Antonio
Brian Kilpatrick
Texas Public Radio
December 16, 2021
https://www.tpr.org/business/2021-12-16/opening-of-texas-mexico-border-boosts-holiday-retail-in-san-antonio

Many San Antonians are flush with savings from spending all that time at home and/or receiving some federal COVID relief dollars. But Crawford said more than that, many are fully vaccinated and boostered and ready to get out of the house for their first real holiday shopping excursion since the pandemic began.

She said it's not just locals turning out; there are plenty of out-of-town shoppers flocking back to one of the city's best-known malls.

"The border is open from Mexico and so we are seeing those Mexican National tourists coming in and shopping," Crawford said. "And then also we are seeing the local U.S. tourists that are people getting out and

doing a little a bit of traveling as well. People always like to purchase something special when their on vacation."

Crawford said this year, malls are a more appealing option for many shoppers due to a couple of problems associated with online shopping.

"Customers are able to come in and pick up their purchase and leave with it, there are absolutely no shipping delays because their able to take it with them," she said.

Crawford said the mall's merchants, more than 200 according to North Star's website, have not reported any major supply chain issues.

She said the mall's sister shopping center, The Shops at La Cantera near Loop 1604 and La Cantera Parkway on the far Northwest Side, is also reporting brisk business.

Both are managed by Brookfield Properties.

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EXCLUSIVE-Royal Dutch Shell confirms new delay in sale of Texas refinery to Mexico's Pemex
Stefanie Esenbacher and Erwin Seba
Reuters
December 16, 2021
https://www.nasdaq.com/articles/exclusive-royal-dutch-shell-confirms-new-delay-in-sale-of-texas-refinery-to-mexicos-pemex

MEXICO CITY/HOUSTON, Dec 16 (Reuters) - Royal Dutch Shell RDSa.Lon Thursday confirmed a Reuters report that the sale of its controlling interest in a Texas refinery to Mexican state oil company Petroleos Mexicanos has been delayed until next year.

A review of the deal by theCommittee on Foreign Investment in the United States, an national security group chaired by the U.S. Treasury, had been expected to wrap up this month but has been extended into next year, Shell spokesperson Curtis Smith said.

Shell in May disclosed an agreement to sell its 50% interest in the 302,800-barrel-per-day (bpd) Deer Park, Texas, refinery outside Houston to partner Pemex for about $596 million. The closing was expected this month, officials have said.

"We were hopeful we could conclude the sale before the end of the month, however, it now looks like the full amount of time will be needed," Smith said. "We will continue to cooperate with CFIUS as they review the transaction."

Pemex was not immediately available to comment.

The delay signals CFIUS has moved past its initial 45-day review and into a second, investigative period. The committee is charged with reviewing sales of critical U.S. infrastructure to foreign buyers for national security implications.

The second phase does not signal a potential rejection by the security group. Questions raised during the inital review can be resolved with a letter of agreement or a mitigation agreement, according to a former CFIUS official not involved in the Pemex review.

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Texas has built 6 miles of wire border fencing along Rio Grande under Operation Lone Star
Sandra Sanchez
Border Report
December 16, 2021
https://www.borderreport.com/politics/texas-has-built-6-miles-of-wire-border-fencing-along-rio-grande-under-operation-lone-star/

WESLACO, Texas (Border Report) — Since Texas Gov. Greg Abbott in June announced the state would "step up" and erect its own border barrier along the Rio Grande, only 6 miles of wire fencing so far has been completed, some of it just temporary razor fence coils laid on the ground, officials with the Texas Military Department said Thursday.

Lt. Col. Dan Garrison of the Texas Military Department, who is an engineer in charge of the fence-building that is part of Operation Lone Star, said they have secured commitments from private landholders to allow fencing to be built on a total of 62.75 miles in five counties along the Texas-Mexico border. The counties include Val Verde, Maverick, Starr, Zapata and Webb.

Currently, the Texas Military Department is building on six private properties along the border, Garrison told media during a news conference Thursday at the Texas Department of Public Safety regional office in Weslaco, Texas.

He said the barrier is being put up for the safety of migrants, as well as landowners.

"There's a big safety aspect in building this barrier. The intent is to stop that crossing in places where people could potentially get hurt," Garrison said.

Civil rights groups allege Operation Lone Star violates Title VI and unfairly targets Black and brown migrants. On Wednesday, 10 organizations filed a complaint with the Department of Justice requesting an investigation and asking that federal funding associated with the operation be revoked.

Two miles of the fencing has been put up in the past two weeks in rural Starr County east of Rio Grande City.

Texas Gov. Greg Abbott plans to visit the site in Rio Grande City on Saturday morning along with Texas General Land Office Commissioner George P. Bush; DPS Director Steve McCraw; Texas Military Department Adjutant Gen. Tracy Norris; and a few state lawmakers, the governor's office announced Thursday.

The Texas General Land Office gave the Department of Public Safety access to 3,100 acres of farmland to put up temporary border fencing.

But Garrison told Border Report that the wire fencing placed in Starr County is concertina wire, and the coils stand no taller than 4-feet off the ground. It is a temporary barricade that can be moved easily "in case of a caravan."

He said the razor wire deters and entangles and stops migrants from crossing the Rio Grande and into the United States.

"If there is a need to stop movement quickly, we can surge to any area and literally place (down) miles within hours," he said.

Abbott has repeatedly supported the operation and criticized the Biden administration for not doing enough to secure the border, in his opinion.

“President Biden’s reckless open border policies have created a humanitarian crisis that is enriching the cartels, smugglers, and human traffickers,” Abbott said in March.

Since Operation Lone Star began on March 4, there have been over 9,000 criminal arrests, and 2,347 criminal trespass arrests and over 167,000 migrant apprehensions, DPS Lt. Chris Olivarez said Thursday.

The operation has involved the placement of giant shipping containers alongside the riverbank near Eagle Pass, as well as a current boat blockade of the Rio Grande near La Joya, Texas, in Hidalgo County. Troopers work alongside National Guard troops and other agencies, and Olivarez said the border barrier is a very visual and effective way of deterring migrants from illegally crossing.

National Guard troops also have arrived in Texas from several other states to support the operation.

Currently, the Texas Military Department is negotiating to build temporary wire fencing on nearly 200 additional riverfront miles, Garrison said. Negotiations with half of those miles are with landowners in Zapata County and Webb County, which is home to Laredo.

None of those negotiations currently include land in Starr County, where Abbott plans to visit on Saturday.

The bulk of the fencing — 4.4 miles — has been built in Val Verde County, where a surge of 15,000 mostly Haitian migrants closed down the Del Rio international bridge in September as they crossed from Acuña, Mexico.

Garrison said construction is slow going, bogged down by areas of bedrock and extremely soft soil. They build at a rate of only a half-mile per day.

He says they are only signing agreements that they know they can complete within six months.

“So the faster we’re able to build, the more agreements we’re able to put on the books and the farther we can go,” Garrison said. “We’re trying to build as fast as we possibly can right now.”

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Sent: Monday, January 10, 2022 11:02 AM
To: Kim Bergmann
Subject: Texas Business Bulletin | January 2022

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Happy New Year! The Texas Economic Development & Tourism Team is looking forward to the new opportunities that 2022 has in store and the continued partnerships with all of our Texas economic development stakeholders!

We start off this new year by bringing you a new resource—the 2022 Texas Business Licenses & Permits Guide. This is the go-to guide for anyone looking to start a new business in the state of Texas. We invite you to utilize this helpful tool and/or share it with your network of aspiring entrepreneurs and small business owners.

We hope you'll enjoy this first Texas Business Bulletin of the year, including a Q&A on my economic development outlook for 2022, new staff spotlights, international market overviews, recent project announcements, and much more.

As always, please visit our website, follow us on social media, or reach out to a member of our team if we can be of any assistance.

-Adriana Cruz, Executive Director, Texas Economic Development & Tourism

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2022 Business Licenses & Permits Guide

The 2022 Business Licenses & Permits Guide is now available! This guide is a great tool for anyone interested in starting a business in the state of Texas.

The guide offers information on licenses and permits that may be required for 300+ business types, including direct links to appropriate state resources that can help address permitting needs.

Please let us know if you have any questions regarding the guide or how to start your business in the Lone Star State. Specific licensing and permitting questions may be directed to the Business Permits Office.

Q&A with Adriana Cruz: Outlook for Economic Development in Texas

Q: How did Texas' economic development successes in 2021 position the state for continued success in 2022?

There's no denying that 2021 was a record-breaking year in terms of economic development wins for the Lone Star State. Our state was named the Best State for Business for the 17th year in a row by the nation's top CEOs, we received a 9th Governor's Cup in a row and 17th total cup for most corporate relocation and expansion projects, and we won the Gold Shovel Award for the 9th year, recognizing our state's efforts to attract high-value investment and large job creating projects. We also saw a significant number of headquarter relocations—73 in total with almost half of those from California companies.

I think that with this significant momentum behind us, we're going to continue to see a high level of interest in Texas and see even more economic development wins in 2022.

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Other notable wins last year, such as Samsung's $17 billion investment in Taylor—the largest foreign direct investment on record in Texas—will not only spur continued economic development activity in 2022, but for decades to come.

Q: Last year, Texas added back all jobs lost from the pandemic impact and then some. How do you see job creation and workforce development continuing in 2022?

The most recent job data shows that Texas reached more than 13 million jobs in November 2021, surpassing our state's pre-pandemic employment levels. This also marked a more than 100% job recovery rate, adding back more than 1.45 million jobs lost at the peak of the pandemic. This milestone highlights the resiliency of the Texas economy, which has allowed us to remain a national leader in job creation and an economic powerhouse. Thanks to our state's focus on economic freedom and prosperity, and a concerted effort on workforce development, we are poised to continue this trend into 2022.

Workforce development will continue to be a priority for the state. Innovative programs such as the Skills Development Fund and the Skills for Small Business Program, through the Texas Workforce Commission, and the Texas Talent Connection Grant, through the Texas Workforce Investment Council, will be essential to developing our state's workforce pipeline, as well as reskilling and upskilling Texans.

Q: Texas has increasingly become known as the new headquarters for headquarters. What do you expect for Texas in 2022 in terms of HQ relocations?

In 2021, Texas saw more headquarter relocations than any other year. As I stated above, more than 70 businesses relocated to the Lone Star State with about half of those from California. I expect that this trend will remain as companies continue to look for a location with the freedom to innovate, succeed, and grow. Thanks to our superior environment for back office operations and financial services, and a corporate services workforce of more than 1.5 million, Texas has the foundation for headquarters to thrive. Nearly 50 Fortune 500 companies call Texas home and notable brand names such as NRG Energy, AECOM, Tesla, and Gordon Ramsay North America announced headquarter relocation plans last year. We expect to see even more corporations in 2022 announce that they have "Gone to Texas"!

Q: What other major economic developments trends do you foresee in 2022?

Looking ahead for 2022, I foresee a number of positive economic development trends for Texas:

- Companies are attracted to Texas for a combination of unique business advantages that no other state can claim: a superior business climate, a strategic location in the center of North America, a highly skilled, diverse, and growing workforce, no corporate or personal income tax, a robust infrastructure network, and a pro-business regulatory environment. Thanks to these factors, and an exceptional quality of life and relatively lower costs, I think we will continue to see a "Texas migration" as more and more businesses and individuals flock to the Lone Star State.
- We will continue to see diversification of our industrial base across the state. Last year, brought new capital investment in sectors from advanced manufacturing and biotech, to corporate services, energy, aerospace, and more. Our economy is sure to continue to become more diverse in 2022.

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- New industries are also going to take hold in Texas. We'll see development in up-and-coming industries such as electric vehicles and battery manufacturing, cybersecurity, cryptocurrency, and commercial space tourism.

One of the most important trends that will continue well into the future is the team effort that it takes to be successful in economic development in Texas. The reason behind our record-breaking year, our success, and our accolades is the close collaboration between the Governor's Office, our community partners, our state agency partners, and our educational institutions. In Texas, economic development will continue to be a team sport!

Hot off the Press

Our office develops in-depth reports and publications highlighting the Lone Star State's best assets in various industry sectors. Check out these and other Reports & Publications on our website.

Texas Aerospace, Aviation & Defense Industry Report

Texas is one of the most important locations globally for aerospace and aviation operations and is a leader in defense spending. Download our newest industry snapshot for more on the aerospace, aviation and defense industry in Texas.

New Staff Spotlight

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Timothy Jackson has joined the Business & Community Development Team as a Program Specialist. Tim has a diverse prior employment history that includes positions as an English tutor, cruise boat bartender and grocery store manager. Additionally, Tim worked at the University of Texas as both a Research Assistant for the Psychology Department and a Sport Club Supervisor for Recreational Sports. Tim holds an Associate of Arts from San Jacinto College, and he is set to graduate in May from the University of Texas with a bachelor's degree in Government and Philosophy. After graduation, Tim plans to attend Law School in 2023. In his free time, Tim likes to stay active. He is currently a First Degree Black Belt in the Mixed Martial Art of Krav Maga and is in the process of earning a Personal Trainer Certification. You may contact Tim through our online staff directory.

Thomas Butterfield has joined the Economic Development Finance Team as a Coordinator after serving as an intern with the office last Fall. Thomas graduated in May 2021 from Texas A&M University with a Master of Science in Finance and a Bachelor of Science in Chemical Engineering. During his schooling, he led a 40-member research team on advanced water desalination to win second place in a school-wide competition, played the tuba for the University Symphonic Band, and was a Fish Camp counselor for two summers. Thomas' interests and hobbies involve reading, especially science fiction, going for walks and bike rides, and meeting up with friends. You may contact Thomas through our online staff directory.

Project activity remains high at the start of this new year. Currently, there are more than 230 active projects in the pipeline and our team continues to field many requests from businesses looking to expand to the Lone Star State. Here are some of Texas' recently announced projects in regions across the state:

- **FUJIFILM Diosynth Biotechnologies in College Station**: FUJIFILM Diosynth Biotechnologies announced a new commercial manufacturing facility in College Station-Bryan. The project is expected to create 150 new jobs and $300 million in capital

investment. A Texas Enterprise Fund grant of $1.5 million has been extended to the company.

- **SmartCap in Fort Worth**: South African company, SmartCap announced plans to expand manufacturing operations into Fort Worth, creating more than 250 full-time jobs and a capital investment of $55 million.
- **Lancium in Abilene**: Houston-based energy technology and infrastructure company, Lancium will build a large-scale, renewable energy powered data center campus in Abilene. The company plans to invest $2.4 billion over 20 years and create 57 full-time jobs.
- **Lock Joint Tube in Temple**: Lock Joint Tube, a mechanical grade steel tubing manufacturer, has announced plans to grow its existing facility in Temple. The $21 million investment will create more than 30 new positions.

Read more project announcements ›

International Business & Trade Opportunities in Latin America

EDT's International Business & Trade Team, in partnership with the American Chamber of Commerce in Colombia, hosted a Latin America & Texas Virtual Trade Week in December 2021. The event invited companies to learn more about trade and business opportunities between Argentina, Colombia, Ecuador, Mexico, Panama and Texas. If you're a Texas business interested in exploring any of these markets, we invite you to watch the playbacks of each market overview to learn more about expanding your business abroad:

- **Welcome Remarks & Colombia Market Overview**
- **México Market Overview**
- **Argentina Market Overview**
- **Perú & Ecuador Market Overview**

To stay updated on the latest export assistance opportunities offered by the Office of the Governor, we invite you to sign up for Texas Export Assistance Updates. For direct questions about international investment and exporting, you may contact our International Business & Trade Team.

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TEXAS TOUTS

"It ain't bragging if it's true!" Here are some of the recent accolades Texas has received:

- Texas is the **#1 Growth State in America**, according to U-Haul migration trends in 2021.
- The City of El Paso's Foreign Trade Zone has been named the **2021 Best Free Zone for Large Tenants for the Americas** by fDi Intelligence.
- Dallas was named a **Top Metro Area for Tech Hiring** in 2021, according to job postings analyzed by Emsi.
- Conroe, Texas, tied for third on the list of **Top Boomtowns in America** by SmartAsset.
- The City of Rockport was named among the **Best Coastal Small Towns** by USA Today.

Join Our Team!

Interested in working with the best state economic development team in the country? The Governor's Office is hiring! There are multiple positions for experienced professionals in Business & Community Development, Economic Development Finance, Tourism, the Texas Film Commission and the Texas Workforce Investment Council. Here's a select sampling of open positions:

- Research Specialist
- Research Specialist
- Business Assistance Specialist
- Business Assistance Specialist
- Marketing & Communications Specialist
- Economic Development Finance Specialist

For more information on available positions, visit gov.texas.gov/employment.

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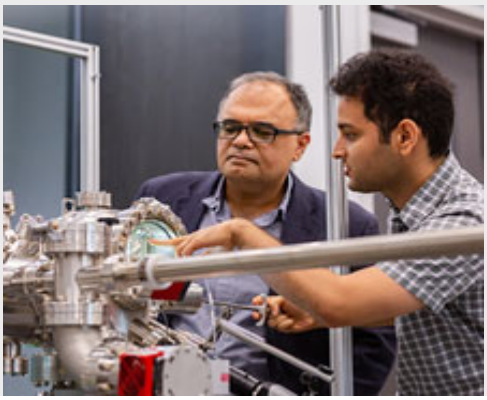
UTSA and Baylor Achieve Carnegie Tier One Status
The University of Texas at San Antonio and Baylor University have become the latest universities in the state to achieve the prestigious ranking for research activity, Carnegie Tier One. The universities join eight other public universities in the state that are designated as Tier One universities.

Embark Expands Autonomous Trucking in Texas
Embark Trucks, Inc., a developer of autonomous technology for the trucking industry, announced its expansion into Texas and the launch of a new autonomous trucking lane between Houston and San Antonio. To support the expansion, Embark announced a partnership with the Texas A&M Engineering Experiment Station to utilize their state-of-the-art test track, and plans to work closely with the Center for Autonomous Vehicles and Sensor Systems (CANVASS).



UTD Partnership in Quantum Device Manufacturing
University of Texas at Dallas researchers and a North Texas company are working to commercialize technology developed at the university that makes it possible for the first time to manufacture tiny quantum devices on a large scale. The Department of Energy granted two Small Business Technology Transfer awards, providing $1.1 million to support the research.

The Texas Economic Development & Tourism Office markets Texas as one of the world's premier business locations and travel destinations.
For more information on doing business in Texas, visit us online at gov.texas.gov/business.

Sign up for our other e-newsletters! Visit our subscription page for more information.

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From: Joe Esparza
To: Sam Taylor; John Scott; Adam Bitter; Keith Ingram
Date: Thursday, January 20, 2022 11:50:57 AM

John Pitts with ES&S is checking-in - I'll remain in contact should we need any help on his end.

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