

118TH CONGRESS
2D SESSION

S. _____

To establish a green transportation infrastructure grant program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Ms. WARREN introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To establish a green transportation infrastructure grant program, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Better Utilizing Invest-
5 ments to Leverage Development and Generating Renew-
6 able Energy to Electrify the Nation’s Infrastructure and
7 Jobs Act” or the “BUILD GREEN Infrastructure and
8 Jobs Act”.

1 **SEC. 2. GREEN TRANSPORTATION INFRASTRUCTURE**
2 **GRANT PROGRAM.**

3 (a) DEFINITIONS.—In this section:

4 (1) ELECTRIC VEHICLE.—The term “electric
5 vehicle” has the meaning given the term in section
6 523.2 of title 49, Code of Federal Regulations (or
7 successor regulations).

8 (2) FRONTLINE, VULNERABLE, OR DISADVAN-
9 TAGED COMMUNITY.—The term “frontline, vulner-
10 able, or disadvantaged community” means a commu-
11 nity—

12 (A) in an area described in section 301(a)
13 of the Public Works and Economic Develop-
14 ment Act of 1965 (42 U.S.C. 3161(a));

15 (B) in which climate change, pollution, or
16 environmental destruction has exacerbated sys-
17 temic racial, regional, social, environmental,
18 gender, and economic injustices by dispropor-
19 tionately affecting Black, Brown, and Indige-
20 nous peoples, other communities of color, mi-
21 grant communities, deindustrialized commu-
22 nities, depopulated rural communities, the poor,
23 low-income workers, women, the elderly, the
24 unhoused, people with disabilities, or youth;

25 (C) eligible for assistance under the
26 Justice40 Initiative described in section 223 of

1 Executive Order 14008 (42 U.S.C. 4321 note;
2 relating to tackling the climate crisis at home
3 and abroad); or

4 (D) located in a census tract that has a
5 high energy burden.

6 (3) GREEN PROJECT.—The term “green
7 project” means a project that—

8 (A) deeply reduces transportation green-
9 house gas emissions and local air pollution; and

10 (B) results in a reduction in overall energy
11 use, maximization of energy efficiency, imple-
12 mentation and use of energy recovery, and an
13 offset of the remaining demand for energy with
14 production of energy from renewable energy
15 sources, such that the project produces as much
16 energy or energy savings as the project uses
17 over the course of a year.

18 (4) GREEN SPACE.—

19 (A) IN GENERAL.—The term “green
20 space” means publicly accessible land or water
21 that—

22 (i) is partly or completely covered with
23 grass, trees, shrubs, or other vegetation;
24 and

1 (ii) provides floodwater alleviation,
2 storm water mitigation, green travel
3 routes, water purification, cooling tempera-
4 tures, pollution management, public health
5 benefits, enhancements to biodiversity, eco-
6 logical resilience, or greenhouse gas emis-
7 sions sequestration.

8 (B) INCLUSIONS.—The term “green
9 space” includes parks, gardens, playing fields,
10 children’s play areas, woods, grassed areas,
11 bodies of water, and trails.

12 (5) GREENHOUSE GAS.—The term “greenhouse
13 gas” means—

14 (A) carbon dioxide;

15 (B) hydrofluorocarbons;

16 (C) methane;

17 (D) nitrous oxide;

18 (E) perfluorocarbons;

19 (F) sulfur hexafluoride;

20 (G) nitrogen trifluoride;

21 (H) chlorofluorocarbons;

22 (I) criteria pollutants for which there are
23 national ambient air quality standards under
24 section 109 of the Clean Air Act (42 U.S.C.
25 7409); and

1 (J) any other anthropogenically-emitted
2 gas or particulate that the Administrator of the
3 Environmental Protection Agency determines,
4 after notice and comment—

5 (i) to contribute to climate change; or

6 (ii) to produce negative effects on
7 human health, biodiversity, or ecological
8 resilience.

9 (6) GREENHOUSE GAS EMISSIONS.—The term
10 “greenhouse gas emissions” means emissions of
11 greenhouse gas, expressed in terms of metric tons of
12 carbon dioxide equivalent.

13 (7) NEW RENEWABLE ENERGY.—The term
14 “new renewable energy” means renewable energy
15 from a source that is not currently producing power.

16 (8) PROGRAM.—The term “program” means
17 the green transportation infrastructure grant pro-
18 gram established under subsection (b).

19 (9) PUBLICLY AVAILABLE EVSE.—

20 (A) IN GENERAL.—The term “publicly
21 available EVSE” means Electric Vehicle Supply
22 Equipment and any associated parking spaces
23 designated by the property owner or lessee to be
24 available to, and accessible by, the public for
25 any period of time, including Electric Vehicle

1 Supply Equipment and associated parking
2 spaces located in parking garages or gated fa-
3 cilities if any member of the public can obtain
4 vehicular access to the facility for free or
5 through payment of a fee.

6 (B) EXCLUSION.—The term “publicly
7 available EVSE” does not include Electric Ve-
8 hicle Supply Equipment and any associated
9 parking spaces in a workplace if the Electric
10 Vehicle Supply Equipment and associated park-
11 ing spaces are clearly marked and operated as
12 available exclusively to employees or contracted
13 drivers.

14 (10) RENEWABLE ENERGY SOURCE.—The term
15 “renewable energy source” means energy generated
16 from renewable sources, including the following:

17 (A) Solar, including electricity.

18 (B) Wind.

19 (C) Ocean, including tidal, wave, current,
20 and thermal.

21 (D) Geothermal, including electricity and
22 heat pumps.

23 (E) Hydroelectric generation capacity
24 achieved from increased efficiency or additions
25 of new capacity—

1 (i) at an existing hydroelectric project;

2 and

3 (ii) that was placed in service on or
4 after January 1, 1999.

5 (F) Hydrogen used in fuel cells or other
6 non-combustion technologies, if the quantity of
7 lifecycle greenhouse gas emissions per unit of
8 fuel energy is zero.

9 (G) Thermal energy generated by any of
10 the sources described in subparagraphs (A)
11 through (F).

12 (11) RESILIENT.—The term “resilient”, with
13 respect to transportation infrastructure projects,
14 means an anticipation of, preparation for, and adap-
15 tation of the project to disruptions and changing en-
16 vironmental and security conditions, and the
17 achievement and maintenance by the project of the
18 capability to withstand, respond to, and recover rap-
19 idly from disruptions while ensuring the sustainment
20 of operations.

21 (12) RURAL AREA.—The term “rural area”
22 means an area with a population of 200,000 or
23 fewer.

24 (13) SECRETARY.—The term “Secretary”
25 means the Secretary of Transportation.

1 (14) URBANIZED AREA.—The term “urbanized
2 area” means an area with a population of more than
3 200,000.

4 (b) ESTABLISHMENT.—The Secretary shall establish
5 a green transportation infrastructure grant program to
6 provide grants on a competitive basis to eligible entities
7 for capital investments in electrified surface transpor-
8 tation infrastructure projects that—

9 (1) will have a significant local or regional im-
10 pact to improve transportation and reduce green-
11 house gas emissions and toxic emissions; and

12 (2) are—

13 (A) sustainable and resilient; and

14 (B) green projects.

15 (c) ELIGIBLE ENTITIES.—An entity eligible to re-
16 ceive a grant under the program is—

17 (1) a State or territory;

18 (2) a unit of local government;

19 (3) a transit agency;

20 (4) a port authority;

21 (5) an Indian tribe (as defined in section 4 of
22 the Indian Self-Determination and Education Assist-
23 ance Act (25 U.S.C. 5304));

24 (6) a Federal land management agency that
25 jointly applies with a State or a group of States; or

1 (7) a multi-State or multijurisdictional group of
2 entities described in paragraphs (1) through (6).

3 (d) ELIGIBLE PROJECTS.—

4 (1) IN GENERAL.—A project eligible to be car-
5 ried out with funds from a grant provided under the
6 program is—

7 (A) a fixed route public transportation
8 project eligible for assistance under chapter 53
9 of title 49, United States Code, that improves
10 public transportation service for transit-depend-
11 ent populations, supports increased transit rid-
12 ership, and is powered by electricity, includ-
13 ing—

14 (i) corridor-based bus rapid transit
15 projects or new fixed guideway capital
16 projects, such as light rail transit, heavy
17 rail transit, or commuter rail transit
18 projects;

19 (ii) the acquisition or lease of low-
20 emission or zero-emission public transit ve-
21 hicles, with or without a leased power
22 source, that will be used to decrease
23 headways or provide new or expanded serv-
24 ice areas or times; and

1 (iii) the construction, lease, rehabilita-
2 tion, or improvement of new or existing fa-
3 cilities and related equipment for low-emis-
4 sion or zero-emission vehicles, including
5 overhead-wire in-motion charging tech-
6 nology;

7 (B) a passenger or freight rail project that
8 is powered solely by an external source of elec-
9 tricity or solar power;

10 (C) a port infrastructure investment, in-
11 cluding inland port infrastructure and land
12 ports of entry, that—

13 (i) installs publicly available EVSE;

14 (ii) facilitates the movement of goods
15 via zero-emission modes; or

16 (iii) supports the deployment of zero-
17 emission port equipment or technology (as
18 defined in section 133(d) of the Clean Air
19 Act (42 U.S.C. 7433(d)));

20 (D) an electrified public micromobility
21 project, including an e-bike share and related
22 projects; and

23 (E) any other project that—

24 (i) the Secretary determines to be ap-
25 propriate; and

1 (ii) clearly demonstrates a contribu-
2 tion to the reduction of greenhouse gas
3 emissions and toxic emissions.

4 (2) LIMITATION.—Funds from a grant provided
5 under the program may not be used to purchase
6 fully automated cargo-handling equipment that is re-
7 motely operated or remotely monitored, with or with-
8 out the exercise of human intervention or control.

9 (e) APPLICATION.—

10 (1) IN GENERAL.—To be eligible to receive a
11 grant under the program, an eligible entity shall
12 submit to the Secretary an application at such time,
13 in such manner, and containing such information as
14 the Secretary may require, including a zero-emission
15 transition plan that examines the impact of the pro-
16 posed project on the workforce of the eligible entity,
17 including an identification of skill gaps, training
18 needs, and retraining needs of that workforce—

19 (A) to operate and maintain infrastructure
20 that is part of the eligible project; and

21 (B) to avoid displacement of that work-
22 force.

23 (2) DEADLINES.—The Secretary shall—

1 (A) publish a notice of funding opportunity
2 for the program by not later than 10 days after
3 October 1 of each fiscal year;

4 (B) require applications for grants under
5 the program to be submitted to the Secretary
6 by not later than 90 days after the date on
7 which the notice of funding opportunity is pub-
8 lished; and

9 (C) select eligible projects to receive grants
10 under the program, in accordance with sub-
11 section (f), by not later than 270 days after Oc-
12 tober 1 of each fiscal year.

13 (f) SELECTION.—

14 (1) IN GENERAL.—The Secretary shall select el-
15 igible projects to receive a grant under the program
16 based on sustainability and workforce criteria, in-
17 cluding—

18 (A) criteria that prioritize collective trans-
19 portation over individual transportation;

20 (B) criteria developed by the Secretary to
21 reduce overall vehicle miles traveled in single
22 occupancy, internal combustion engine vehicles;

23 (C) the extent to which the project pro-
24 motes the electrification of all public transpor-
25 tation, intercity passenger and freight rail

1 transportation, intercity bus service, and school
2 bus service;

3 (D) the extent to which the eligible entity
4 has—

5 (i) used funds apportioned under sec-
6 tion 104(b) of title 23, United States
7 Code, to carry out the project; or

8 (ii) demonstrated why the eligible en-
9 tity was unable to use those funds to carry
10 out the project;

11 (E) criteria developed by the Secretary, in
12 consultation with the Administrator of the En-
13 vironmental Protection Agency, that consider
14 the extent to which the eligible project contrib-
15 utes to—

16 (i) climate resilience;

17 (ii) climate mitigation;

18 (iii) air pollution and emissions of
19 hazardous air pollutants (as defined in sec-
20 tion 112(a) of the Clean Air Act (42
21 U.S.C. 7412(a))); and

22 (iv) greenhouse gas emissions;

23 (F) criteria developed by the Secretary, in
24 consultation with the Secretary of Energy, that
25 consider the extent to which the eligible project

1 will achieve energy savings and reduced energy
2 usage compared to other eligible projects;

3 (G) criteria developed by the Secretary, in
4 consultation with the Secretary of Energy, that
5 consider the extent to which the eligible project
6 will improve pedestrian and nonmotorized vehi-
7 cle access and safety compared to other eligible
8 projects;

9 (H) the extent to which the project will im-
10 prove the frequency of existing fixed route pub-
11 lic transportation service;

12 (I) criteria developed by the Secretary, in
13 consultation with the Secretary of Housing and
14 Urban Development, that consider the extent to
15 which a public transportation project serves
16 areas of affordable housing or promotes transit-
17 oriented development;

18 (J) the extent to which the eligible entity
19 demonstrates methods to preserve or encourage
20 affordable housing near the project, as the Sec-
21 retary determines to be appropriate;

22 (K) criteria developed by the Secretary, in
23 consultation with the Secretary of Labor, that
24 consider the information described in subsection
25 (m)(2); and

1 (L) criteria developed by the Secretary to
2 identify projects underserved by existing Fed-
3 eral funding opportunities.

4 (2) EXCLUSION.—In selecting eligible projects
5 to receive a grant under the program, the Secretary
6 shall not use the Federal share percentage or the
7 ability of an applicant to generate non-Federal rev-
8 enue as a selection criterion.

9 (3) PRIORITY.—In selecting eligible projects to
10 receive a grant under the program, the Secretary
11 shall give priority to an eligible project—

12 (A) that is located in—

13 (i) a frontline, vulnerable, or dis-
14 advantaged community;

15 (ii) an area identified as having dis-
16 proportionately high adverse human health
17 and environmental impacts on minority
18 populations and low-income populations;

19 (iii) a community of color;

20 (iv) a low-income community;

21 (v) a deindustrialized community; or

22 (vi) a community facing environ-
23 mental injustice.

1 (B) that requires a contribution of Federal
2 funds in order to complete an overall financing
3 package;

4 (C) that includes—

5 (i) the addition of—

6 (I) a new green space; or

7 (II) new State or local park sys-
8 tem units and recreation areas admin-
9 istered for outdoor recreation pur-
10 poses; or

11 (ii) an improvement to improve access
12 to an existing green space, State or local
13 park system unit, or recreation area ad-
14 ministered for outdoor recreation purposes,
15 including pedestrian and bicycle access;

16 (D) for which the applicant commits to
17 give preference to prime contractors, and sub-
18 contractors performing more than 50 percent of
19 the work, that have a collective bargaining
20 agreement in place with their employees that is
21 not a covered project labor agreement (as de-
22 fined in subsection (m)(3)(B)); or

23 (E) that includes partnerships between
24 Federal, State, and local agencies to ensure
25 that the project is well-coordinated and meets

1 the needs of the communities served by the
2 project.

3 (4) REPORT.—Not less frequently than once
4 each year, the Secretary shall —

5 (A) submit a report that contains the cri-
6 teria for eligible projects developed under para-
7 graph (1) to—

8 (i) the Committee on Commerce,
9 Science, and Transportation of the Senate;

10 (ii) the Committee on Environment
11 and Public Works of the Senate;

12 (iii) the Committee on Health, Edu-
13 cation, Labor, and Pensions of the Senate;

14 (iv) the Committee on Transportation
15 and Infrastructure of the House of Rep-
16 resentatives;

17 (v) the Committee on Energy and
18 Commerce of the House of Representa-
19 tives; and

20 (vi) the Committee on Education and
21 Workforce of the House of Representa-
22 tives; and

23 (B) make the report under subparagraph
24 (A) available to the public.

25 (g) GRANT REQUIREMENTS.—

1 (1) ENVIRONMENTAL STANDARD.—As a condi-
2 tion of receiving a grant under the program, any
3 building or structure that is part of an eligible
4 project, including existing buildings, shall comply
5 with, or, in the case of an existing building, be ren-
6 ovated to comply with, environmental standards de-
7 termined by the Secretary, that are at least as strin-
8 gent as the Leadership in Energy and Environ-
9 mental Design (LEED) standards of the United
10 States Green Building Council.

11 (2) WORKFORCE DEVELOPMENT.—

12 (A) IN GENERAL.—Except as provided in
13 subparagraph (B), an eligible entity that re-
14 ceives a grant under the program shall use not
15 less than 5 percent of the funds from the grant
16 to fund workforce development training, includ-
17 ing registered apprenticeships and other labor
18 management training programs, as part of the
19 zero-emission transition plan of the eligible enti-
20 ty described in subsection (e)(1).

21 (B) EXCEPTION.—The Secretary may re-
22 duce the amount set aside under subparagraph
23 (A) for workforce development training with re-
24 spect to an eligible entity if the eligible entity
25 certifies that a smaller percentage of grant

1 funds is sufficient to fund the workforce devel-
2 opment training described in that subpara-
3 graph.

4 (3) RAILWAY LABOR.—

5 (A) IN GENERAL.—In the case of a rail
6 project that receives a grant under the pro-
7 gram, the eligible entity shall—

8 (i) comply with subsections (b), (c),
9 and (d) of section 22905 of title 49,
10 United States Code; and

11 (ii) ensure that work on the project is
12 carried out by workers who are part of the
13 existing workforce of the eligible entity, to
14 the maximum extent possible.

15 (B) EMPLOYEE PROTECTIONS.—In the
16 case of a rail project that receives a grant
17 under the program, the eligible entity shall
18 comply with section 22404 of title 49, United
19 States Code.

20 (4) USE OF RENEWABLE ENERGY.—

21 (A) IN GENERAL.—As a condition of re-
22 ceiving a grant under the program, any eligible
23 project that, after completion of the project,
24 uses electrical energy shall use electrical energy
25 in a manner that does not increase usage of

1 nonrenewable energy sources, in accordance
2 with subparagraph (B).

3 (B) METHODS.—An eligible entity may
4 comply with subparagraph (A) by—

5 (i) purchasing new renewable energy
6 or renewable energy credits for the eligible
7 project;

8 (ii) generating new renewable energy
9 for the eligible project;

10 (iii) converting to use of renewable en-
11 ergy for another project of the eligible enti-
12 ty in an equivalent quantity of nonrenew-
13 able energy used for the eligible project; or

14 (iv) any combination of the methods
15 described in clauses (i) through (iii).

16 (C) REPORT.—An eligible entity that re-
17 ceives a grant under the program shall report
18 to the Secretary annually on the percentage of
19 renewable energy used and steps taken for en-
20 ergy conservation in the eligible project.

21 (5) LABOR REQUIREMENTS.—As a condition of
22 receiving a grant under the program, the eligible en-
23 tity shall submit to the Secretary a certification that
24 the eligible entity is in compliance with subsection
25 (m).

1 (6) COMPLIANCE.—

2 (A) IN GENERAL.—If the Secretary deter-
3 mines that an eligible project is not in compli-
4 ance with any provision of this subsection, the
5 Secretary shall promptly notify the eligible enti-
6 ty of the noncompliance.

7 (B) WITHHOLDING OF FUNDS FOR NON-
8 COMPLIANCE.—If an eligible entity that receives
9 a notification of noncompliance under subpara-
10 graph (A) is not in compliance with this sub-
11 section beginning on the date that is 180 days
12 after the date of the notification under subpara-
13 graph (A), the Secretary shall withhold from
14 the State in which the eligible project is located
15 10 percent of the amount required to be appor-
16 tioned to the State under section 104(b) of title
17 23, United States Code, from that State until
18 the eligible project is in compliance with this
19 subsection.

20 (h) DISTRIBUTION OF GRANTS.—

21 (1) IN GENERAL.—For each fiscal year, in car-
22 rying out the program, the Secretary shall ensure
23 that grants are provided—

24 (A) on an equitable geographical basis, in-
25 cluding with respect to Tribal communities;

1 (B) in a manner that achieves an appro-
2 priate balance in addressing the needs of urban-
3 ized areas and rural areas; and

4 (C) in a manner that prioritizes eligible
5 projects in areas described in section 301(a) of
6 the Public Works and Economic Development
7 Act of 1965 (42 U.S.C. 3161(a)).

8 (2) STATE AMOUNTS.—

9 (A) MINIMUM AMOUNT.—For each fiscal
10 year, the total amount awarded to eligible
11 projects in each State shall be not less than the
12 lesser of—

13 (i) 0.8 percent of the amounts made
14 available to carry out the program for that
15 fiscal year; and

16 (ii) the total amount requested for eli-
17 gible projects in that State for that fiscal
18 year for which the Secretary has deter-
19 mined meet the selection criteria under the
20 program.

21 (B) MAXIMUM AMOUNT.—For each fiscal
22 year, the total amount provided under the pro-
23 gram for eligible projects in a single State shall
24 not exceed an amount equal to 8 percent of the

1 amounts made available to carry out the pro-
2 gram for that fiscal year.

3 (3) RURAL AREAS, URBANIZED AREAS, AND
4 FRONTLINE, VULNERABLE, OR DISADVANTAGED
5 COMMUNITIES.—

6 (A) RURAL AREAS.—

7 (i) IN GENERAL.—Of the amounts
8 made available to carry out the program
9 for each fiscal year, not less than 30 per-
10 cent and not more than 40 percent shall be
11 used for eligible projects located in rural
12 areas.

13 (ii) GRANT AMOUNT.—The amount of
14 a grant provided under the program for a
15 project in a rural area shall be not less
16 than \$1,000,000.

17 (iii) FEDERAL SHARE.—The Federal
18 share of the cost of an eligible project in
19 a rural area carried out with a grant under
20 the program may exceed 90 percent, at the
21 discretion of the Secretary.

22 (B) URBANIZED AREAS.—

23 (i) IN GENERAL.—Of the amounts
24 made available to carry out the program
25 for each fiscal year, not less than 60 per-

1 cent and not more than 70 percent shall be
2 used for eligible projects located in urban-
3 ized areas.

4 (ii) METROPOLITAN PLANNING
5 AREA.—Amounts made available under
6 clause (i) may be used for eligible projects
7 in the metropolitan planning area estab-
8 lished under section 134 of title 23, United
9 States Code, that encompasses the urban-
10 ized area.

11 (C) FRONTLINE, VULNERABLE, OR DIS-
12 ADVANTAGED COMMUNITIES.—

13 (i) IN GENERAL.—Of the total
14 amounts made available to carry out the
15 program for each fiscal year under sub-
16 paragraphs (A) and (B), not less than 40
17 percent shall be used for eligible projects
18 located in frontline, vulnerable, or dis-
19 advantaged communities.

20 (ii) GRANT AMOUNT.—The amount of
21 a grant provided under the program for a
22 project in a frontline, vulnerable, or dis-
23 advantaged community shall be not less
24 than \$1,000,000.

1 (iii) FEDERAL SHARE.—The Federal
2 share of the cost of an eligible project in
3 a frontline, vulnerable, or disadvantaged
4 community carried out with a grant under
5 the program may exceed 90 percent, at the
6 discretion of the Secretary.

7 (i) GRANT AMOUNT.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), a grant under the program shall be in an
10 amount that is not less than \$2,000,000.

11 (2) PLANNING GRANTS.—A grant under the
12 program for the planning, preparation, or design of
13 an eligible project shall not be subject to a minimum
14 grant amount.

15 (j) FEDERAL SHARE.—Except as otherwise provided
16 in this section, the Federal share of the cost of a project
17 carried out with a grant under the program shall be, at
18 the discretion of the eligible entity—

19 (1) not more than 90 percent, for the purpose
20 of planning, design, and construction of the project;
21 and

22 (2) up to 100 percent of the operation and
23 maintenance costs of the project for the first 10
24 years of the project.

1 (II) beginning on the date that is
2 1 year after such date of enactment,
3 and annually thereafter, the amount
4 in effect under this clause for the pre-
5 ceding year, increased by the annual
6 percentage increase, if any, in the me-
7 dian hourly wage of all employees as
8 determined by the Bureau of Labor
9 Statistics and rounded up to the near-
10 est multiple of \$0.05 (if not otherwise
11 a multiple of \$0.05).

12 (ii) CALCULATION.—In calculating the
13 annual percentage increase in the median
14 hourly wage of all employees for purposes
15 of clause (i)(II), the Secretary of Labor,
16 through the Bureau of Labor Statistics,
17 shall—

18 (I) compile data on the hourly
19 wages of all employees to determine
20 such a median hourly wage; and

21 (II) compare such median hourly
22 wage for the most recent year for
23 which data are available with the me-
24 dian hourly wage determined for the
25 preceding year.

1 (iii) PREVAILING WAGES FOR LABOR-
2 ERS AND MECHANICS.—

3 (I) IN GENERAL.—All laborers
4 and mechanics employed by contrac-
5 tors or subcontractors in the perform-
6 ance of construction, alteration, or re-
7 pair work carried out, in whole or in
8 part, with assistance made available
9 under the program shall be paid
10 wages at rates not less than the great-
11 er of—

12 (aa) the rates prevailing on
13 similar construction in the local-
14 ity as determined by the Sec-
15 retary of Labor in accordance
16 with subchapter IV of chapter 31
17 of title 40, United States Code;
18 or

19 (bb) the rate required under
20 clause (i).

21 (II) AUTHORITIES.—With respect
22 to the labor standards specified in
23 subclause (I)(aa), the Secretary of
24 Labor shall have the authority and
25 functions set forth in Reorganization

1 Plan Numbered 14 of 1950 (64 Stat.
2 1267; 5 U.S.C. App.) and section
3 3145 of title 40, United States Code.

4 (B) EMPLOYEE PROTECTIVE ARRANGE-
5 MENTS.—The contractor or subcontractor shall
6 ensure the interests of employees employed in
7 the performance of the eligible project shall be
8 protected under arrangements the Secretary of
9 Labor concludes are fair and equitable in ac-
10 cordance with section 5333(b) of title 49,
11 United States Code, and meet the requirements
12 of such section. The solicitation for the grant
13 under this section shall specify the arrange-
14 ments.

15 (C) NEUTRALITY TOWARD ORGANIZED
16 LABOR.—The contractor or subcontractor shall
17 have—

18 (i) an explicit policy of neutrality with
19 regard to—

20 (I) labor organizing for the em-
21 ployees of the contractor or subcon-
22 tractor employed in the performance
23 of the eligible project; and

24 (II) such employees' choice to
25 form and join labor organizations; and

1 (ii) policies that require—

2 (I) the posting and maintenance
3 of notices in the workplace to such
4 employees of their rights under the
5 National Labor Relations Act (29
6 U.S.C. 151 et seq.); and

7 (II) that such employees are, at
8 the beginning of their employment in
9 the performance of the eligible
10 project, provided notice and informa-
11 tion regarding the employees' rights
12 under such Act.

13 (D) PAID FAMILY AND MEDICAL LEAVE.—
14 The contractor or subcontractor shall have an
15 explicit policy providing all employees employed
16 in the performance of the eligible project not
17 less than 12 workweeks of paid leave in a 12-
18 month period for any purpose described in sec-
19 tion 102(a)(1) of the Family and Medical Leave
20 Act of 1993 (29 U.S.C. 2612(a)(1)), in accord-
21 ance with regulations promulgated by the Sec-
22 retary of Labor.

23 (E) FAIR SCHEDULING.—

24 (i) IN GENERAL.—The contractor or
25 subcontractor shall have an explicit policy

1 for fair scheduling for employees employed
2 in the performance of the eligible project,
3 which shall include—

4 (I) an opportunity for the em-
5 ployee to request—

6 (aa) an adjustment in the
7 number of hours, work location,
8 or times of the employee's work
9 schedule;

10 (bb) a change in the amount
11 of notification provided to the
12 employee regarding the work
13 schedule; or

14 (cc) the minimizing of flue-
15 tuations in the number of hours
16 the employee is scheduled to
17 work on a daily, weekly, or
18 monthly basis; and

19 (II) a timely, good faith inter-
20 active process through which the con-
21 tractor or subcontractor and employee
22 discuss the employee's request under
23 subclause (I) and the contractor or
24 subcontractor grants the request or

1 suggests any alternatives that might
2 meet the employee's needs.

3 (ii) EXCEPTION.—Clause (i) shall not
4 apply to any employee covered by a valid
5 collective bargaining agreement if—

6 (I) the terms of the collective
7 bargaining agreement include terms
8 that govern work scheduling practices;
9 and

10 (II) the provisions of clause (i)
11 are expressly waived in such collective
12 bargaining agreement.

13 (F) PREFERENCES IN HIRING.—The con-
14 tractor or subcontractor shall have explicit poli-
15 cies that provide—

16 (i) a preference for local hiring for all
17 construction work conducted in the per-
18 formance of the eligible project, consistent
19 with applicable Federal law and subject to
20 rules issued by the Secretary of Labor; and

21 (ii) a preference for the hiring of indi-
22 viduals from frontline, vulnerable, or dis-
23 advantaged communities for construction
24 in the performance of an eligible contract.

1 (G) CONTRACTOR REQUIREMENT REGARD-
2 ING SUBCONTRACTORS.—The contractor or sub-
3 contractor shall require that each subcontractor
4 of the contractor for an eligible project carried
5 out under the program comply with the require-
6 ments of this paragraph with respect to all em-
7 ployees of the subcontractor employed in the
8 performance of the project.

9 (2) DISCLOSURE.—A contractor desiring a con-
10 tract under an eligible project carried out under the
11 program shall disclose to the Secretary in the con-
12 tract application any administrative merits deter-
13 mination, arbitral award or decision, or civil judg-
14 ment against the contractor during the previous 5
15 years for any violation of—

16 (A) the Fair Labor Standards Act of 1938
17 (29 U.S.C. 201 et seq.);

18 (B) the Occupational Safety and Health
19 Act of 1970 (29 U.S.C. 651 et seq.);

20 (C) the Migrant and Seasonal Agricultural
21 Worker Protection Act (29 U.S.C. 1801 et
22 seq.);

23 (D) the National Labor Relations Act (29
24 U.S.C. 151 et seq.);

1 (E) subchapter IV of chapter 31 of title
2 40, United States Code (commonly known as
3 the “Davis-Bacon Act”);

4 (F) chapter 67 of title 41, United States
5 Code (commonly known as the “Service Con-
6 tract Act”);

7 (G) Executive Order 11246 (42 U.S.C.
8 2000e note; relating to equal employment op-
9 portunity);

10 (H) section 503 of the Rehabilitation Act
11 of 1973 (29 U.S.C. 793);

12 (I) chapter 42 or 43 of title 38, United
13 States Code;

14 (J) the Family and Medical Leave Act of
15 1993 (29 U.S.C. 2601 et seq.);

16 (K) title VII of the Civil Rights Act of
17 1964 (42 U.S.C. 2000e et seq.);

18 (L) title I of the Americans with Disabil-
19 ities Act of 1990 (42 U.S.C. 12111 et seq.);

20 (M) the Age Discrimination in Employ-
21 ment Act of 1967 (29 U.S.C. 621 et seq.);

22 (N) Executive Order 13658 (79 Fed. Reg.
23 9851; relating to establishing a minimum wage
24 for contractors);

1 (O) title II of the Genetic Information
2 Nondiscrimination Act of 2008 (42 U.S.C.
3 2000ff et seq.);

4 (P) section 40002(b)(13)(A) of the Vio-
5 lence Against Women Act of 1994 (34 U.S.C.
6 12291(b)(13)(A));

7 (Q) the Pregnant Workers Fairness Act
8 (42 U.S.C. 2000gg et seq.); or

9 (R) any State law equivalent of a law de-
10 scribed in any of subparagraphs (A) through
11 (Q), in accordance with guidance issued by the
12 Secretary of Labor.

13 (3) LABOR AGREEMENTS FOR CONSTRUCTION
14 PROJECTS.—

15 (A) IN GENERAL.—A contractor for an eli-
16 gible project carried out under the program
17 that is a construction project shall be a party
18 to a covered project labor agreement.

19 (B) DEFINITIONS.—In this paragraph:

20 (i) COVERED PROJECT LABOR AGREE-
21 MENT.—The term “covered project labor
22 agreement” means a project labor agree-
23 ment that—

24 (I) binds all contractors and sub-
25 contractors on the construction

1 project through the inclusion of ap-
2 propriate specifications in all relevant
3 solicitation provisions and contract
4 documents;

5 (II) allows all contractors and
6 subcontractors to compete for con-
7 tracts and subcontracts without re-
8 gard to whether they are otherwise a
9 party to a collective bargaining agree-
10 ment;

11 (III) contains guarantees against
12 strikes, lockouts, and other similar job
13 disruptions;

14 (IV) sets forth effective, prompt,
15 and mutually binding procedures for
16 resolving labor disputes arising during
17 the covered project labor agreement;
18 and

19 (V) provides other mechanisms
20 for labor-management cooperation on
21 matters of mutual interest and con-
22 cern, including productivity, quality of
23 work, safety, and health.

24 (ii) PROJECT LABOR AGREEMENT.—

25 The term “project labor agreement” means

1 a pre-hire collective bargaining agreement
2 with one or more labor organizations that
3 establishes the terms and conditions of em-
4 ployment for a specific construction project
5 and is described in section 8(f) of the Na-
6 tional Labor Relations Act (29 U.S.C.
7 158(f)).

8 (4) DETERMINING EMPLOYMENT RELATION-
9 SHIP.—For purposes of this subsection, an indi-
10 vidual performing any service in the performance of
11 an eligible project for a contractor or subcontractor
12 shall be considered an employee, and not an inde-
13 pendent contractor, of that contractor or subcon-
14 tractor, unless—

15 (A) the individual is free from control and
16 direction in connection with the performance of
17 the service, both under the contract for the per-
18 formance of service and in fact;

19 (B) the service is performed outside the
20 usual course of the business of the contractor
21 or subcontractor; and

22 (C) the individual is customarily engaged
23 in an independently established trade, occupa-
24 tion, profession, or business of the same nature
25 as that involved in the service performed.

1 (n) FUNDING.—

2 (1) IN GENERAL.—There is authorized to be
3 appropriated to carry out the program
4 \$50,000,000,000 for each of fiscal years 2025
5 through 2034, of which not less than
6 \$15,000,000,000 shall be for grants for fixed route
7 public transportation projects eligible for assistance
8 under chapter 53 of title 49, United States Code.

9 (2) AVAILABILITY.—Amounts made available
10 under paragraph (1) shall remain available until
11 January 1, 2045.

12 **SEC. 3. FEDERAL FUNDING EXCHANGE PROGRAMS.**

13 Section 106(g) of title 23, United States Code, is
14 amended by adding at the end the following:

15 “(6) FEDERAL FUNDING EXCHANGE PRO-
16 GRAMS.—A State may implement a program under
17 which a subrecipient has the option to exchange
18 Federal funds allocated to the subrecipient in ac-
19 cordance with the requirements of this title for State
20 or local funds if the State certifies to the Secretary
21 that—

22 “(A) the State has prevailing wage and do-
23 mestic content requirements that are com-
24 parable to the requirements under sections 113
25 and 313, respectively; and

1 “(B) the requirements described in sub-
2 paragraph (A) shall apply to projects carried
3 out using the State or local funds if the
4 projects would have been subject to the require-
5 ments of sections 113 and 313 if the projects
6 were carried out using Federal funds.”.

7 **SEC. 4. CLOSING THE LOW-NO LOOPHOLE.**

8 Section 5339(c)(5)(B) of title 49, United States
9 Code, is amended by striking “no less than 25 percent”
10 and inserting “not more than 5 percent”.

11 **SEC. 5. EXPANDING THE ELIGIBILITY OF FIXED GUIDEWAY**
12 **GRANTS.**

13 Section 5309(b)(2) of title 49, United States Code,
14 is amended by inserting “planning for a new fixed guide-
15 way capital project that would relieve crowding on an ex-
16 isting fixed guideway corridor, the installation of platform
17 screen doors, the construction of new entrances to existing
18 stations, the automation of operations that increase the
19 frequency of service on the automated corridor,” after
20 “construction of infill stations,”.

21 **SEC. 6. PROHIBITION ON DISCRIMINATION.**

22 No individual in the United States may, on the basis
23 of actual or perceived race, color, religion, national origin,
24 sex (including gender identity and sexual orientation), age,
25 or disability, be excluded from participation in, be denied

- 1 the benefits of, or be subjected to discrimination under,
- 2 any program or activity that is funded in whole or in part
- 3 with funds made available to carry out this Act.