

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 Transportation
13 and Infrastructure of the House of Rep-
14 resentatives; and

15 (iv) the Committee on Energy and
16 Commerce of the House of Representa-
17 tives; and

18 (B) make the report under subparagraph

19 (A) available to the public.

20 (g) GRANT REQUIREMENTS.—

21 (1) ENVIRONMENTAL STANDARD.—As a condi-
22 tion of receiving a grant under the program, any
23 building or structure that is part of an eligible
24 project, including existing buildings, shall comply
25 with, or, in the case of an existing building, be ren-

1 ovated to comply with, environmental standards de-
2 termined by the Secretary, that are at least as strin-
3 gent as the Leadership in Energy and Environ-
4 mental Design (LEED) standards of the United
5 States Green Building Council.

6 (2) WORKFORCE DEVELOPMENT.—

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

16 (B) EXCEPTION.—The Secretary may re-
17 duce the amount set aside under subparagraph
18 (A) for workforce development training with re-
19 spect to an eligible entity if the eligible entity
20 certifies that a smaller percentage of grant
21 funds is sufficient to fund the workforce devel-
22 opment training described in that subpara-
23 graph.

24 (3) RAILWAY LABOR.—

1 (A) IN GENERAL.—In the case of a rail
2 project that receives a grant under the pro-
3 gram, the eligible entity shall ensure that work
4 on the project is carried out by workers—

5 (i) who are employees (as defined in
6 section 1 of the Railway Labor Act (45
7 U.S.C. 151), section 1 of the Railroad Re-
8 tirement Act of 1974 (45 U.S.C. 231), and
9 section 1 of the Railroad Unemployment
10 Insurance Act (45 U.S.C. 351)); and

11 (ii) who are part of the existing work-
12 force of the eligible entity, to the maximum
13 extent possible.

14 (B) ADVANCE NOTICE.—In the case of a
15 rail project that receives a grant under the pro-
16 gram, the employer of a worker described in
17 subparagraph (A) shall provide those workers
18 sufficient advance notice of the project to pro-
19 vide sufficient opportunity for workers to par-
20 ticipate in workforce development programs,
21 with the goal of providing the option to partici-
22 pate in the project or to transition to a new job.

23 (4) USE OF RENEWABLE ENERGY.—

24 (A) IN GENERAL.—As a condition of re-
25 ceiving a grant under the program, any eligible

1 project that, after completion of the project,
2 uses electrical energy shall use electrical energy
3 in a manner that does not increase usage of
4 nonrenewable energy sources, in accordance
5 with subparagraph (B).

6 (B) METHODS.—An eligible entity may
7 comply with subparagraph (A) by—

8 (i) purchasing new renewable energy
9 or renewable energy credits for the eligible
10 project;

11 (ii) generating new renewable energy
12 for the eligible project;

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

17 (iv) any combination of the methods
18 described in clauses (i) through (iii).

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

24 (5) LABOR REQUIREMENTS.—As a condition of
25 receiving a grant under the program, the eligible en-

1 tity shall submit to the Secretary a certification that
2 the eligible entity is in compliance with subsection
3 (m).

4 (6) COMPLIANCE.—

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

10 (B) WITHHOLDING OF FUNDS FOR NON-
11 COMPLIANCE.—If an eligible entity that receives
12 a notification of noncompliance under subpara-
13 graph (A) is not in compliance with this sub-
14 section beginning on the date that is 180 days
15 after the date of the notification under subpara-
16 graph (A), the Secretary shall withhold from
17 the State in which the eligible project is located
18 10 percent of the amount required to be appor-
19 tioned to the State under section 104(b) of title
20 23, United States Code, from that State until
21 the eligible project is in compliance with this
22 subsection.

23 (h) DISTRIBUTION OF GRANTS.—

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

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

6 (B) in a manner that achieves an appro-
7 priate balance in addressing the needs of urban-
8 ized areas and rural areas; and

9 (C) in a manner that prioritizes eligible
10 projects in areas described in section 301(a) of
11 the Public Works and Economic Development
12 Act of 1965 (42 U.S.C. 3161(a)).

13 (2) STATE AMOUNTS.—

14 (A) MINIMUM AMOUNT.—For each fiscal
15 year, the total amount awarded to eligible
16 projects in each State shall be not less than the
17 lesser of—

18 (i) 0.8 percent of the amounts made
19 available to carry out the program for that
20 fiscal year; and

21 (ii) the total amount requested for eli-
22 gible projects in that State for that fiscal
23 year for which the Secretary has deter-
24 mined meet the selection criteria under the
25 program.

1 (B) MAXIMUM AMOUNT.—For each fiscal
2 year, the total amount provided under the pro-
3 gram for eligible projects in a single State shall
4 not exceed an amount equal to 8 percent of the
5 amounts made available to carry out the pro-
6 gram for that fiscal year.

7 (3) RURAL AREAS, URBANIZED AREAS, AND
8 FRONTLINE, VULNERABLE, OR DISADVANTAGED
9 COMMUNITIES.—

10 (A) RURAL AREAS.—

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

17 (ii) GRANT AMOUNT.—The amount of
18 a grant provided under the program for a
19 project in a rural area shall be not less
20 than \$1,000,000.

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

1 (B) URBANIZED AREAS.—

2 (i) IN GENERAL.—Of the amounts
3 made available to carry out the program
4 for each fiscal year, not less than 60 per-
5 cent and not more than 70 percent shall be
6 used for eligible projects located in urban-
7 ized areas.

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

15 (C) FRONTLINE, VULNERABLE, OR DIS-
16 ADVANTAGED COMMUNITIES.—

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

24 (ii) GRANT AMOUNT.—The amount of
25 a grant provided under the program for a

1 project in a frontline, vulnerable, or dis-
2 advantaged community shall be not less
3 than \$1,000,000.

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

10 (i) GRANT AMOUNT.—

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

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

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

22 (1) not more than 90 percent, for the purpose
23 of planning, design, and construction of the project;
24 and

1 (2) up to 100 percent of the operation and
2 maintenance costs of the project for the first 10
3 years of the project.

4 (k) TIFIA; RRIF.—For each fiscal year, the Sec-
5 retary may use an amount equal to not more than 20 per-
6 cent of the amounts made available to carry out the pro-
7 gram for that fiscal year to pay the subsidy and adminis-
8 trative costs of projects eligible for Federal credit assist-
9 ance under chapter 6 of title 23, United States Code, or
10 chapter 224 of title 49, United States Code, if the Sec-
11 retary finds that such use of those amounts would advance
12 the purposes of the program.

13 (l) BUY AMERICA.—Section 70914 of the Infrastruc-
14 ture Investment and Jobs Act (41 U.S.C. 8301 note; Pub-
15 lic Law 117–58) shall apply to an eligible project that re-
16 ceives a grant under the program.

17 (m) LABOR PROVISIONS.—

18 (1) EMPLOYEE WAGES AND PROTECTIONS.—
19 Each contractor and subcontractor for an eligible
20 project carried out under the program shall comply
21 with the following:

22 (A) MINIMUM WAGE.—

23 (i) IN GENERAL.—All employees em-
24 ployed in the performance of the eligible

1 project shall be paid at a rate of not less
2 than—

3 (I) \$17.43 an hour, beginning on
4 the date of enactment of this Act; and

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

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

22 (I) compile data on the hourly
23 wages of all employees to determine
24 such a median hourly wage; and

1 (II) compare such median hourly
2 wage for the most recent year for
3 which data are available with the me-
4 dian hourly wage determined for the
5 preceding year.

6 (iii) PREVAILING WAGES FOR LABOR-
7 ERS AND MECHANICS.—

8 (I) IN GENERAL.—Notwith-
9 standing clause (i), all laborers and
10 mechanics employed by contractors or
11 subcontractors in the performance of
12 construction, alteration, or repair
13 work carried out, in whole or in part,
14 with assistance made available under
15 the program shall be paid wages at
16 rates not less than the greater of—

17 (aa) the rates prevailing on
18 similar construction in the local-
19 ity as determined by the Sec-
20 retary of Labor in accordance
21 with subchapter IV of chapter 31
22 of title 40, United States Code;
23 or

24 (bb) the rate required under
25 clause (i).

1 (II) AUTHORITIES.—With respect
2 to the labor standards specified in
3 subclause (I)(aa), the Secretary of
4 Labor shall have the authority and
5 functions set forth in Reorganization
6 Plan Numbered 14 of 1950 (64 Stat.
7 1267; 5 U.S.C. App.) and section
8 3145 of title 40, United States Code.

9 (B) NEUTRALITY TOWARD ORGANIZED
10 LABOR.—The contractor or subcontractor shall
11 have—

12 (i) an explicit policy of neutrality with
13 regard to—

14 (I) labor organizing for the em-
15 ployees of the contractor or subcon-
16 tractor employed in the performance
17 of the eligible project; and

18 (II) such employees' choice to
19 form and join labor organizations; and

20 (ii) policies that require—

21 (I) the posting and maintenance
22 of notices in the workplace to such
23 employees of their rights under the
24 National Labor Relations Act (29
25 U.S.C. 151 et seq.); and

1 (II) that such employees are, at
2 the beginning of their employment in
3 the performance of the eligible
4 project, provided notice and informa-
5 tion regarding the employees' rights
6 under such Act.

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

17 (D) FAIR SCHEDULING.—

18 (i) IN GENERAL.—The contractor or
19 subcontractor shall have an explicit policy
20 for fair scheduling for employees employed
21 in the performance of the eligible project,
22 which shall include—

23 (I) an opportunity for the em-
24 ployee to request—

1 (aa) an adjustment in the
2 number of hours, work location,
3 or times of the employee's work
4 schedule;

5 (bb) a change in the amount
6 of notification provided to the
7 employee regarding the work
8 schedule; or

9 (cc) the minimizing of fluc-
10 tuations in the number of hours
11 the employee is scheduled to
12 work on a daily, weekly, or
13 monthly basis; and

14 (II) a timely, good faith inter-
15 active process through which the con-
16 tractor or subcontractor and employee
17 discuss the employee's request under
18 subclause (I) and the contractor or
19 subcontractor grants the request or
20 suggests any alternatives that might
21 meet the employee's needs.

22 (ii) EXCEPTION.—Clause (i) shall not
23 apply to any employee covered by a valid
24 collective bargaining agreement if—

1 (I) the terms of the collective
2 bargaining agreement include terms
3 that govern work scheduling practices;
4 and

5 (II) the provisions of clause (i)
6 are expressly waived in such collective
7 bargaining agreement.

8 (E) PREFERENCES IN HIRING.—The con-
9 tractor or subcontractor shall have explicit poli-
10 cies that provide—

11 (i) a preference for local hiring for all
12 construction work conducted in the per-
13 formance of the eligible project, consistent
14 with applicable Federal law and subject to
15 rules issued by the Secretary of Labor; and

16 (ii) a preference for the hiring of indi-
17 viduals from frontline, vulnerable, or dis-
18 advantaged communities for construction
19 in the performance of an eligible contract.

20 (F) CONTRACTOR REQUIREMENT REGARD-
21 ING SUBCONTRACTORS.—The contractor or sub-
22 contractor shall require that each subcontractor
23 of the contractor for an eligible project carried
24 out under the program comply with the require-
25 ments of this paragraph with respect to all em-

1 ployees of the subcontractor employed in the
2 performance of the project.

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

10 (A) the Fair Labor Standards Act of 1938
11 (29 U.S.C. 201 et seq.);

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

14 (C) the Migrant and Seasonal Agricultural
15 Worker Protection Act (29 U.S.C. 1801 et
16 seq.);

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

19 (E) subchapter IV of chapter 31 of title
20 40, United States Code (commonly known as
21 the “Davis-Bacon Act”);

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

1 (G) Executive Order 11246 (42 U.S.C.
2 2000e note; relating to equal employment op-
3 portunity);

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

6 (I) chapter 42 or 43 of title 38, United
7 States Code;

8 (J) the Family and Medical Leave Act of
9 1993 (29 U.S.C. 2601 et seq.);

10 (K) title VII of the Civil Rights Act of
11 1964 (42 U.S.C. 2000e et seq.);

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

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

16 (N) Executive Order 13658 (79 Fed. Reg.
17 9851; relating to establishing a minimum wage
18 for contractors);

19 (O) title II of the Genetic Information
20 Nondiscrimination Act of 2008 (42 U.S.C.
21 2000ff et seq.);

22 (P) section 40002(b)(13)(A) of the Vio-
23 lence Against Women Act of 1994 (34 U.S.C.
24 12291(b)(13)(A));

1 (Q) the Pregnant Workers Fairness Act
2 (42 U.S.C. 2000gg et seq.); or

3 (R) any State law equivalent of a law de-
4 scribed in any of subparagraphs (A) through
5 (Q), in accordance with guidance issued by the
6 Secretary of Labor.

7 (3) LABOR AGREEMENTS FOR CONSTRUCTION
8 PROJECTS.—

9 (A) IN GENERAL.—A contractor for an eli-
10 gible project carried out under the program
11 that is a construction project shall be a party
12 to a covered project labor agreement.

13 (B) DEFINITIONS.—In this paragraph:

14 (i) COVERED PROJECT LABOR AGREE-
15 MENT.—The term “covered project labor
16 agreement” means a project labor agree-
17 ment that—

18 (I) binds all contractors and sub-
19 contractors on the construction
20 project through the inclusion of ap-
21 propriate specifications in all relevant
22 solicitation provisions and contract
23 documents;

24 (II) allows all contractors and
25 subcontractors to compete for con-

1 tracts and subcontracts without re-
2 gard to whether they are otherwise a
3 party to a collective bargaining agree-
4 ment;

5 (III) contains guarantees against
6 strikes, lockouts, and other similar job
7 disruptions;

8 (IV) sets forth effective, prompt,
9 and mutually binding procedures for
10 resolving labor disputes arising during
11 the covered project labor agreement;
12 and

13 (V) provides other mechanisms
14 for labor-management cooperation on
15 matters of mutual interest and con-
16 cern, including productivity, quality of
17 work, safety, and health.

18 (ii) PROJECT LABOR AGREEMENT.—
19 The term “project labor agreement” means
20 a pre-hire collective bargaining agreement
21 with one or more labor organizations that
22 establishes the terms and conditions of em-
23 ployment for a specific construction project
24 and is described in section 8(f) of the Na-

1 tional Labor Relations Act (29 U.S.C.
2 158(f)).

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

10 (A) the individual is free from control and
11 direction in connection with the performance of
12 the service, both under the contract for the per-
13 formance of service and in fact;

14 (B) the service is performed outside the
15 usual course of the business of the contractor
16 or subcontractor; and

17 (C) the individual is customarily engaged
18 in an independently established trade, occupa-
19 tion, profession, or business of the same nature
20 as that involved in the service performed.

21 (n) FUNDING.—

22 (1) IN GENERAL.—There is authorized to be
23 appropriated to carry out the program
24 \$50,000,000,000 for each of fiscal years 2025
25 through 2034, of which not less than

1 \$15,000,000,000 shall be for grants for fixed route
2 public transportation projects eligible for assistance
3 under chapter 53 of title 49, United States Code.

4 (2) AVAILABILITY.—Amounts made available
5 under paragraph (1) shall remain available until
6 January 1, 2045.

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

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

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

17 “(A) the State has prevailing wage and do-
18 mestic content requirements that are com-
19 parable to the requirements under sections 113
20 and 313, respectively; and

21 “(B) the requirements described in sub-
22 paragraph (A) shall apply to projects carried
23 out using the State or local funds if the
24 projects would have been subject to the require-

