

117TH CONGRESS
1ST SESSION

H. R. 463

To amend title 23, United States Code, to provide a set aside for transportation alternatives.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 25, 2021

Mr. ESPAILLAT (for himself and Mr. LARSEN of Washington) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend title 23, United States Code, to provide a set aside for transportation alternatives.

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 “Transportation Alter-
5 natives Enhancements Act”.

6 **SEC. 2. TRANSPORTATION ALTERNATIVES PROGRAM.**

7 Section 133(h) of title 23, United States Code, is
8 amended to read as follows:

9 “(h) TRANSPORTATION ALTERNATIVES PROGRAM
10 SET ASIDE.—

1 “(1) SET ASIDE.—For each fiscal year, of the
2 total funds apportioned to all States under section
3 104(b)(2) for a fiscal year, the Secretary shall set
4 aside an amount such that—

5 “(A) the Secretary sets aside a total
6 amount under this subsection for a fiscal year
7 equal to 10 percent of such total funds; and

8 “(B) the State’s share of the amount set
9 aside under subparagraph (A) is determined by
10 multiplying the amount set aside under sub-
11 paragraph (A) by the ratio that—

12 “(i) the amount apportioned to the
13 State for the transportation enhancement
14 program for fiscal year 2009 under section
15 133(d)(2), as in effect on the day before
16 the date of enactment of MAP-21; bears
17 to

18 “(ii) the total amount of funds appor-
19 tioned to all States for the transportation
20 enhancements program for fiscal year
21 2009.

22 “(2) ALLOCATION WITHIN A STATE.—

23 “(A) IN GENERAL.—Except as provided in
24 subparagraph (B), funds set aside for a State
25 under paragraph (1) shall be obligated within

1 that State in the manner described in sub-
2 sections (d) and (e), except that, for purposes
3 of this paragraph (after funds are made avail-
4 able under paragraph (5))—

5 “(i) for each fiscal year, the percent-
6 age referred to in paragraph (1)(A) of sub-
7 section (d) shall be deemed to be 66 per-
8 cent; and

9 “(ii) paragraph (3) of subsection (d)
10 shall not apply.

11 “(B) LOCAL CONTROL.—

12 “(i) IN GENERAL.—A State may make
13 available up to 100 percent of the funds
14 set aside under paragraph (1) to the enti-
15 ties described in subclause (I) if the State
16 submits to the Secretary, and the Sec-
17 retary approves, a plan that describes—

18 “(I) how such funds shall be
19 made available to metropolitan plan-
20 ning organizations, regional transpor-
21 tation planning organizations, coun-
22 ties, or other regional transportation
23 authorities;

24 “(II) how the entities described
25 in subclause (I) shall select projects

1 for funding and how such entities
2 shall report selected projects to the
3 State;

4 “(III) the legal, financial, and
5 technical capacity of such entities; and

6 “(IV) the procedures in place to
7 ensure such entities comply with the
8 requirements of this title.

9 “(ii) REQUIREMENT.—A State that
10 makes funding available under a plan ap-
11 proved under this subparagraph shall make
12 available an equivalent amount of obliga-
13 tion authority to the entities described in
14 clause (i)(I).

15 “(3) ELIGIBLE PROJECTS.—Funds set aside
16 under this subsection may be obligated for any of
17 the following projects or activities:

18 “(A) Construction, planning, and design of
19 on-road and off-road trail facilities for pedes-
20 trians, bicyclists, and other nonmotorized forms
21 of transportation, including sidewalks, bicycle
22 infrastructure, pedestrian and bicycle signals,
23 traffic calming techniques, lighting and other
24 safety-related infrastructure, and transportation
25 projects to achieve compliance with the Ameri-

1 cans with Disabilities Act of 1990 (42 U.S.C.
2 12101 et seq.).

3 “(B) Construction, planning, and design of
4 infrastructure-related projects and systems that
5 will provide safe routes for nondrivers, includ-
6 ing children, older adults, and individuals with
7 disabilities to access daily needs.

8 “(C) Conversion and use of abandoned
9 railroad corridors for trails for pedestrians,
10 bicyclists, or other nonmotorized transportation
11 users.

12 “(D) Construction of turnouts, overlooks,
13 and viewing areas.

14 “(E) Community improvement activities,
15 including—

16 “(i) inventory, control, or removal of
17 outdoor advertising;

18 “(ii) historic preservation and reha-
19 bilitation of historic transportation facili-
20 ties;

21 “(iii) vegetation management prac-
22 tices in transportation rights-of-way to im-
23 prove roadway safety, prevent against
24 invasive species, and provide erosion con-
25 trol; and

1 “(iv) archaeological activities relating
2 to impacts from implementation of a trans-
3 portation project eligible under this title.

4 “(F) Any environmental mitigation activ-
5 ity, including pollution prevention and pollution
6 abatement activities and mitigation to address
7 stormwater management, control, and water
8 pollution prevention or abatement related to
9 highway construction or due to highway runoff,
10 including activities described in sections 328(a)
11 and 329.

12 “(G) Projects and strategies to reduce ve-
13 hicle-caused wildlife mortality related to, or to
14 restore and maintain connectivity among terres-
15 trial or aquatic habitats affected by, a transpor-
16 tation facility otherwise eligible for assistance
17 under this subsection.

18 “(H) The recreational trails program
19 under section 206.

20 “(I) The safe routes to school program
21 under section 211.

22 “(J) Activities in furtherance of a vulner-
23 able road user assessment described in section
24 148.

1 “(K) Any other projects or activities de-
2 scribed in section 101(a)(29) or section 213, as
3 such sections were in effect on the day before
4 the date of enactment of the FAST Act (Public
5 Law 114–94).

6 “(4) ACCESS TO FUNDS.—

7 “(A) IN GENERAL.—A State or metropoli-
8 tan planning organization required to obligate
9 funds in accordance with paragraph (2) shall
10 develop a competitive process to allow eligible
11 entities to submit projects for funding that
12 achieve the objectives of this subsection. A met-
13 ropolitan planning organization for an area de-
14 scribed in subsection (d)(1)(A)(i) shall select
15 projects under such process in consultation with
16 the relevant State. The competitive process
17 shall include prioritization of project location
18 and impact in low-income, transit-dependent, or
19 other high-need areas.”

20 “(B) ELIGIBLE ENTITY DEFINED.—In this
21 paragraph, the term ‘eligible entity’ means—

22 “(i) a local government;

23 “(ii) a regional transportation author-
24 ity;

25 “(iii) a transit agency;

1 “(iv) a natural resource or public land
2 agency;

3 “(v) a school district, local education
4 agency, or school;

5 “(vi) a tribal government;

6 “(vii) a metropolitan planning organi-
7 zation that serves an urbanized area with
8 a population of 200,000 or fewer;

9 “(viii) a nonprofit organization car-
10 rying out activities related to transpor-
11 tation;

12 “(ix) any other local or regional gov-
13 ernmental entity with responsibility for or
14 oversight of transportation or recreational
15 trails (other than a metropolitan planning
16 organization that serves an urbanized area
17 with a population of over 200,000 or a
18 State agency) that the State determines to
19 be eligible, consistent with the goals of this
20 subsection; and

21 “(x) a State, at the request of any en-
22 tity listed in clauses (i) through (x).

23 “(5) IMPROVING ACCESSIBILITY AND EFFI-
24 CIENCY.—

1 “(A) IN GENERAL.—A State may use an
2 amount equal to not more than 5 percent of the
3 funds set aside for the State under this sub-
4 section, after allocating funds in accordance
5 with paragraph (2)(A), to improve the ability of
6 applicants to access funding for projects under
7 this subsection in an efficient and expeditious
8 manner by providing—

9 “(i) to applicants for projects under
10 this subsection application assistance, tech-
11 nical assistance, and assistance in reducing
12 the period of time between the selection of
13 the project and the obligation of funds for
14 the project; and

15 “(ii) funding for 1 or more full-time
16 State employee positions to administer this
17 subsection.

18 “(B) USE OF FUNDS.—Amounts used
19 under subparagraph (A) may be expended—

20 “(i) directly by the State; or

21 “(ii) through contracts with State
22 agencies, private entities, or nonprofit enti-
23 ties.

24 “(6) FEDERAL SHARE.—

25 “(A) FLEXIBLE MATCH.—

1 “(i) IN GENERAL.—Notwithstanding
2 section 120—

3 “(I) the non-Federal share for a
4 project under this subsection may be
5 calculated on a project, multiple-
6 project, or program basis; and

7 “(II) the Federal share of the
8 cost of an individual project in this
9 subsection may be up to 100 percent.

10 “(ii) AGGREGATE NON-FEDERAL
11 SHARE.—The average annual non-Federal
12 share of the total cost of all projects for
13 which funds are obligated under this sub-
14 section in a State for a fiscal year shall be
15 not less than the non-Federal share au-
16 thorized for the State under section
17 120(b).

18 “(iii) REQUIREMENT.—This subpara-
19 graph shall only apply to a State if such
20 State has adequate financial controls, as
21 certified by the Secretary, to account for
22 the average annual non-Federal share
23 under this subparagraph.

24 “(B) SAFETY PROJECTS.—Notwith-
25 standing section 120, funds made available to

1 carry out section 148 may be credited toward
2 the non-Federal share of the costs of a project
3 under this subsection if the project—

4 “(i) is a project described in section
5 148(e)(1); and

6 “(ii) is consistent with the State stra-
7 tegic highway safety plan (as defined in
8 section 148(a)).

9 “(7) FLEXIBILITY.—

10 “(A) STATE AUTHORITY.—

11 “(i) IN GENERAL.—A State may use
12 not more than 50 percent of the funds set
13 aside under this subsection that are avail-
14 able for obligation in any area of the State
15 (suballocated consistent with the require-
16 ments of subsection (d)(1)(B)) for any
17 purpose eligible under subsection (b).

18 “(ii) RESTRICTION.—Funds may be
19 used as described in clause (i) only if the
20 State demonstrates to the Secretary that
21 the State—

22 “(I) held a competition in compli-
23 ance with the requirements of this
24 subsection in such form as the Sec-
25 retary determines appropriate;

1 “(II) offered technical assistance
2 to all eligible entities and provided
3 such assistance upon request by an el-
4 igible entity; and

5 “(III) demonstrates that there
6 were not sufficient suitable applica-
7 tions from eligible entities to use the
8 funds described in clause (i).

9 “(B) MPO AUTHORITY.—

10 “(i) IN GENERAL.—A metropolitan
11 planning organization that represents an
12 urbanized area with a population of great-
13 er than 200,000 may use not more than
14 50 percent of the funds set aside under
15 this subsection for an urbanized area de-
16 scribed in subsection (d)(1)(A)(i) for any
17 purpose eligible under subsection (b).

18 “(ii) RESTRICTION.—Funds may be
19 used as described in clause (i) only if the
20 Secretary certifies that the metropolitan
21 planning organization—

22 “(I) held a competition in compli-
23 ance with the requirements of this
24 subsection in such form as the Sec-
25 retary determines appropriate; and

1 “(II) demonstrates that there
2 were not sufficient suitable applica-
3 tions from eligible entities to use the
4 funds described in clause (i).

5 “(8) ANNUAL REPORTS.—

6 “(A) IN GENERAL.—Each State or metro-
7 politan planning organization responsible for
8 carrying out the requirements of this subsection
9 shall submit to the Secretary an annual report
10 that describes—

11 “(i) the number of project applica-
12 tions received for each fiscal year, includ-
13 ing—

14 “(I) the aggregate cost of the
15 projects for which applications are re-
16 ceived; and

17 “(II) the types of projects to be
18 carried out, expressed as percentages
19 of the total apportionment of the
20 State under this subsection; and

21 “(ii) the list of each project selected
22 for funding for each fiscal year, including
23 specifying the fiscal year for which the
24 project was selected, the fiscal year in
25 which the project is anticipated to be fund-

1 ed, the recipient, the location, the congres-
2 sional district, the type, and a brief de-
3 scription.

4 “(B) PUBLIC AVAILABILITY.—The Sec-
5 retary shall make available to the public, in a
6 user-friendly format on the website of the De-
7 partment of Transportation, a copy of each an-
8 nual report submitted under subparagraph
9 (A).”.

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