

This Act may be cited as the “Investing in a New Vision for the Environment and Surface Transportation in America Act” or the “INVEST in America Act”. June 2, 2020

SEC. 1110. TOLLING.

(a) TOLL ROADS, BRIDGES, TUNNELS, AND FERRIES.—Section 129 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (1) and inserting the following:

“(1) IN GENERAL.—

“(A) AUTHORIZATION FOR FEDERAL PARTICIPATION —Subject to the provisions of this section, Federal participation shall be permitted on the same basis and in the same manner as construction of toll-free highways is permitted under this chapter in the—

“(i) initial construction of a toll highway, bridge, or tunnel or approach to the highway, bridge, or tunnel;

“(ii) initial construction of 1 or more lanes or other improvements that increase capacity of a highway, bridge, or tunnel (other than a highway on the Interstate System) and conversion of that highway, bridge, or tunnel to a tolled facility, if the number of toll-free lanes, excluding auxiliary lanes, after the construction is not less than the number of toll-free lanes, excluding auxiliary lanes, before the construction;

“(iii) initial construction of 1 or more lanes or other improvements that increase the capacity of a highway, bridge, or tunnel on the Interstate System and conversion of that highway, bridge, or tunnel to a tolled facility, if the number of toll-free non-HOV lanes, excluding auxiliary lanes, after such construction is not less than the number of toll-free non-HOV lanes, excluding auxiliary lanes, before such construction;

“(iv) reconstruction, resurfacing, restoration, rehabilitation, or replacement of a toll highway, bridge, or tunnel or approach to the highway, bridge, or tunnel;

“(v) reconstruction or replacement of a toll-free bridge or tunnel and conversion of the bridge or tunnel to a toll facility;

“(vi) reconstruction of a toll-free Federal-aid highway (other than a highway on the Interstate System) and conversion of the highway to a toll facility;

“(vii) reconstruction, restoration, or rehabilitation of a highway on the Interstate System if the number of toll-free non-HOV lanes, excluding auxiliary lanes, after reconstruction, restoration, or rehabilitation is not less than the number of toll-free non-HOV lanes, excluding auxiliary lanes, before reconstruction, restoration, or rehabilitation;

“(viii) conversion of a high occupancy vehicle lane on a highway, bridge, or tunnel to a toll facility, subject to the requirements of section 166; and

“(iv) preliminary studies to determine the feasibility of a toll facility for which Federal participation is authorized under this paragraph.

“(B) AGREEMENT TO TOLL.—

“(i) IN GENERAL.—Before the Secretary may authorize tolling as described in this paragraph, the public authority with jurisdiction over a highway, bridge, or tunnel shall enter into an agreement with the Secretary to ensure compliance with the requirements of this subsection.

“(ii) APPLICABILITY.—

“(I) IN GENERAL.—The provisions of this paragraph shall apply to—

“(aa) Federal participation under subparagraph (A);

“(bb) any prior Federal participation in the facility proposed to be tolled; and

“(cc) conversion, with or without Federal participation, of a non-tolled lane on the National Highway System to a toll facility under subparagraph (E).

“(II) HOV FACILITY.—Except as otherwise provided in this subsection or section 166, the provisions of this paragraph shall not apply to a high occupancy vehicle facility.

“(iii) MAJOR FEDERAL ACTION.—Approval by the Secretary of an agreement to toll under this paragraph shall be considered a major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(C) AGREEMENT CONDITIONS.—Prior to entering into an agreement to toll under this subsection, the public authority shall certify to the Secretary that—

“(i) the public authority has established procedures to ensure the toll meets the purposes and requirements of this subsection;

“(ii) the facility shall provide for access at no cost to public transportation vehicles and over-the-road buses serving the public; and

“(iii) the facility shall provide for the regional interoperability of electronic toll collection, including through technologies or business practices.

“(D) CONSIDERATION OF IMPACTS.—

“(i) IN GENERAL.—Prior to entering into an agreement to toll under this section, the Secretary shall ensure the public authority has adequately considered, including by providing an opportunity for public comment, the following factors within the corridor:

“(I) Congestion impacts on both the toll facility and in the corridor or cordon (including adjacent toll-free facilities).

“(II) In the case of a non-attainment or maintenance area, air quality impacts.

“(III) Planned investments to improve public transportation or other non-tolled alternatives in the corridor.

“(IV) Environmental justice and equity impacts.

“(V) Impacts on freight movement.

“(VI) Economic impacts on businesses.

“(ii) CONSIDERATION IN ENVIRONMENTAL REVIEW.—Nothing in this subparagraph shall limit a public authority from meeting the requirements of this subparagraph through the environmental review process, as applicable.

“(E) CONGESTION PRICING.—

“(i) IN GENERAL.—The Secretary may authorize conversion of a non-tolled lane on the National Highway System to a toll facility to utilize variable pricing to manage the demand to use the facility by varying the toll amount that is charged.

“(ii) REQUIREMENT.—Prior to entering into an agreement to convert a non-tolled lane on the National Highway System to a toll facility, the Secretary shall ensure (in addition to the requirements under subparagraphs (B), (C), and (D)) that

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such toll facility and the planned investments to improve public transportation or other non-tolled alternatives in the corridor are reasonably expected to improve the operation of the cordon or corridor, as described in clauses (iii) and (iv).

“(iii) PERFORMANCE MONITORING.—

A public authority that enters into an agreement to convert a non-tolled lane to a toll facility under this subparagraph shall—

“(I) establish, monitor, and support a performance monitoring, evaluation, and reporting program—

“(aa) for the toll facility that provides for continuous monitoring, assessment, and reporting on the impacts that the pricing structure may have on the operation of the facility; and

“(bb) for the corridor or cordon that provides for continuous monitoring, assessment, and reporting on the impacts of congestion pricing on the operation of the corridor or cordon;

“(II) submit to the Secretary annual reports of the impacts described in subclause (I); and

“(III) if the facility or the corridor or cordon becomes degraded, as described in clause (iv), submit to the Secretary an annual update that describes the actions proposed to bring the toll facility into compliance and the progress made on such actions.

“(iv) DETERMINATION.—

“(I) DEGRADED OPERATION.—For purposes of clause (iii)(III), the operation of a toll facility shall be considered to be degraded if vehicles operating on the facility are failing to maintain a minimum average operating speed 90 percent of the time over a consecutive 180-day period during morning or evening weekday peak hour periods (or both).

“(II) DEGRADED CORRIDOR OR CORDON.—For the purposes of clause (iii)(III), a corridor or cordon shall be considered to be degraded if congestion pricing or investments to improve public transportation or other nontolled alternatives have not resulted in—

“(aa) an increase in person or freight throughput in the corridor or cordon; and

“(bb) a reduction in person hours of delay in the corridor or cordon, as determined by the Secretary.

“(III) DEFINITION OF MINIMUM AVERAGE OPERATING SPEED.—In this subparagraph, the term ‘minimum average operating speed’ means—

“(aa) 45 miles per hour, in the case of a toll facility with a speed limit of 50 miles per hour or greater; and

“(bb) not more than 25 miles per hour below the speed limit, in the case of a toll facility with a speed limit of less than 50 miles per hour.

“(v) MAINTENANCE OF OPERATING PERFORMANCE.—

“(I) IN GENERAL.—Not later than 180 days after the date on which a facility or a corridor or cordon becomes degraded under clause (iv), the public authority with jurisdiction over the facility shall submit to the Secretary for approval a plan that details the actions the public authority will take to make significant progress toward bringing the facility or corridor or cordon into compliance with this subparagraph.

“(II) NOTICE OF APPROVAL OR DISAPPROVAL.—Not later than 60 days after the date of receipt of a plan under subclause (I), the Secretary shall provide to the public authority a written notice indicating whether the Secretary has approved or disapproved the plan based on a determination of whether the implementation of

the plan will make significant progress toward bringing the facility or corridor or cordon into compliance with this subparagraph.

“(III) UPDATE.—Until the date on which the Secretary determines that the public authority has brought facility or corridor or cordon into compliance with this subparagraph, the public authority shall submit annual updates that describe—

“(aa) the actions taken to bring the facility into compliance;

“(bb) the actions taken to bring the corridor or cordon into compliance; and

“(cc) the progress made by those actions.

“(IV) COMPLIANCE.—If a public authority fails to bring a facility into compliance under this subparagraph, the Secretary may subject the public authority to appropriate program sanctions under section 1.36 of title 23, Code of Federal Regulations (or successor regulations), until the performance is no longer degraded.

“(vi) CONSULTATION OF MPO.—If a toll facility authorized under this subparagraph is located on the National Highway System and in a metropolitan planning area established in accordance with section 134, the public authority shall consult with the metropolitan planning organization for the area.

“(vii) INCLUSION.—For the purposes of this paragraph, the corridor or cordon shall include toll-free facilities that are adjacent to the toll facility.”;

(B) in paragraph (3)—

(i) in subparagraph (A)—

(I) in clause (iv) by striking “and” at the end; and

(II) by striking clause (v) and inserting the following:

“(v) any project eligible under this title or chapter 53 of title 49 that improves the operation of the corridor or cordon by increasing person or freight throughput and reducing person hours of delay;

“(vi) toll discounts or rebates for users of the toll facility that have no reasonable alternative transportation method to the toll facility; and

“(vii) if the public authority certifies annually that the tolled facility is being adequately maintained and the cordon or corridor is not degraded under paragraph (1)(E), any revenues remaining after funding the activities described in clauses (i) through (vi) shall be considered surplus revenue and may be used for any other purpose for which Federal funds may be obligated by a State under this title or chapter 53 of title 49.”;

(ii) by striking subparagraph (B) and inserting the following:

(B) TRANSPARENCY.—

“(i) ANNUAL AUDIT.—

“(I) IN GENERAL.—A public authority with jurisdiction over a toll facility shall conduct or have an independent auditor conduct an annual audit of toll facility records to verify adequate maintenance and compliance with subparagraph (A), and report the results of the audits to the Secretary.

“(II) RECORDS.—On reasonable notice, the public authority shall make all records of the public authority pertaining to the toll facility available for audit by the Secretary.

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“(ii) SURPLUS REVENUES.—A State that obligates amounts under clauses (v), (vi), or (vii) of subparagraph (A) shall annually report to the Secretary a list of activities funded with such amounts and the amount of funding provided for each such activity.”;

(C) in paragraph (8) by striking “as of the date of enactment of the MAP–21, before commencing any activity authorized” and inserting “, before commencing any activity authorized”; and

(D) by striking paragraph (10) and inserting the following:

“(10) INTEROPERABILITY OF ELECTRONIC TOLL COLLECTION.—All toll facilities on Federal-aid highways shall provide for the regional interoperability of electronic toll collection, including through technologies or business practices.

“(11) NONCOMPLIANCE.—If the Secretary concludes that a public authority has not complied with the requirements of this subsection, the Secretary may require the public authority to discontinue collecting tolls until the public authority and the Secretary enter into an agreement for the public authority to achieve compliance with such requirements.

“(12) DEFINITIONS.—In this subsection, the following definitions apply:

“(A) FEDERAL PARTICIPATION.—The term ‘Federal participation’ means the use of funds made available under this title.

“(B) HIGH OCCUPANCY VEHICLE; HOV.—

The term ‘high occupancy vehicle’ or ‘HOV’ means a vehicle with not fewer than 2 occupants.

“(C) INITIAL CONSTRUCTION.—

“(i) IN GENERAL.—The term ‘initial construction’ means the construction of a highway, bridge, tunnel, or other facility at any time before it is open to traffic.

“(ii) EXCLUSIONS.—The term ‘initial construction’ does not include any improvement to a highway, bridge, tunnel, or other facility after it is open to traffic.

“(D) OVER-THE-ROAD BUS.—The term ‘over-the-road bus’ has the meaning given the term in section 301 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181).

“(E) PUBLIC AUTHORITY.—The term ‘public authority’ means a State, interstate compact of States, or public entity designated by a State.

“(F) PUBLIC TRANSPORTATION VEHICLE.—The term ‘public transportation vehicle’ has the meaning given that term in section 166.

“(G) TOLL FACILITY.—The term ‘toll facility’ means a toll highway, bridge, or tunnel or approach to the highway, bridge, or tunnel constructed or authorized to be tolled under this subsection.”.

(b) REPEAL OF INTERSTATE SYSTEM RECONSTRUCTION AND REHABILITATION PILOT PROGRAM.—Section 1216 of the Transportation Equity Act for the 21st Century (23 U.S.C. 129 note), and the item related to such section in the table of contents in section 1(b) of such Act, are repealed.

(c) VALUE PRICING PILOT PROGRAM.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note) is amended by adding at the end the following:

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“(9) SUNSET.—The Secretary may not consider an expression of interest submitted under this section after the date of enactment of this paragraph.”.

(d) SAVINGS CLAUSE.—

(1) APPLICATION OF LIMITATIONS.—Any toll facility described in paragraph (2) shall be subject to the requirements of section 129(a)(3) of title 23, United States Code, as in effect on the day before the date of enactment of this Act.

(2) TOLL FACILITIES.—A toll facility described in this paragraph is a facility that, on the day prior to the date of enactment of this Act was—

(A) operating;

(B) in the planning and design phase; or

(C) in the construction phase.

Other Highlights of Invest in America Act

(a) EXTENSION OF FEDERAL SURFACE TRANSPORTATION PROGRAMS.—

(1) IN GENERAL.—Except as otherwise provided in this division, the requirements, authorities, conditions, eligibilities, limitations, and other provisions authorized under the covered laws, which would otherwise expire on or cease to apply after September 30, 2020, are incorporated by reference and shall continue in effect through September 30, 2021.

SEC. 103. FEDERAL TRANSIT ADMINISTRATION

(b) SPECIAL RULES FOR FISCAL YEAR 2021.—

(1) USE OF FUNDS.—Notwithstanding 5307(a)(1) of title 49, United States Code, amounts made available under subsection (a)(1)(A) may be obligated for—

(A) operating expenses, including, beginning on January 20, 2020—

(i) reimbursement for operating costs to maintain service and offset lost revenue, including the purchase of personal protective equipment; and

(ii) paying the administrative leave of operations personnel due to reductions in service; and

(B) any other activity eligible under section 5307, 5310, 5311, or 5337 of title 49, United States Code.

(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, \$300,000,000 for each of fiscal years 2022 through 2025.

“(g) HIGHWAY TRUST FUND TRANSPARENCY AND ACCOUNTABILITY REPORTS.—

“(1) REQUIREMENT.—

“(A) IN GENERAL.—The Secretary shall compile data in accordance with this subsection on the use of Federal-aid highway funds made available under this title.

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“(B) USER FRIENDLY DATA.—The data compiled under subparagraph (A) shall be in a user friendly format that can be searched, downloaded, disaggregated, and filtered by data category.

“(2) PROJECT DATA.—

“(A) IN GENERAL.—Not later than 120 days after the end of each fiscal year, the Secretary shall make available on the website of the Department of Transportation a report that describes—

“(i) the location of each active project within each State during such fiscal year, including in which congressional district or districts such project is located;

“(ii) the total cost of such project;

“(iii) the amount of Federal funding obligated for such project;

“(iv) the program or programs from which Federal funds have been obligated for such project;

“(v) whether such project is located in an area of the State with a population of—

“(I) less than 5,000 individuals;

“(II) 5,000 or more individuals but less than 50,000 individuals;

“(III) 50,000 or more individuals but less than 200,000 individuals; or

“(IV) 200,000 or more individuals;

“(vi) the type of improvement being made by such project, including categorizing such project as—

“(I) a road reconstruction project;

“(II) a new road construction project;

“(III) a new bridge construction project;

“(IV) a bridge rehabilitation project; or

“(V) a bridge replacement project;

“(vii) the functional classification of the roadway on which such project is located; and

“(viii) available information on the estimated cost of such project as of the start of project construction, or the revised cost estimate based on a description of revisions to the scope of work or other factors affecting project cost other than cost overruns.

“(B) INTERACTIVE MAP.—In addition to the data made available under subparagraph (A), the Secretary shall make available on the website of the Department of Transportation an interactive map that displays, for each active project, the information described in clauses (i) through (v) of subparagraph (A).

“(3) STATE DATA.—

“(A) APPORTIONED AND ALLOCATED PROGRAMS.—The website described in paragraph (2)(A) shall display the Federal-aid highway funds apportioned and allocated to each State under this title, including—

“(i) the amount of funding available for obligation by the State at the start of the fiscal year;

“(ii) the amount of funding obligated by the State during such fiscal year;

“(ii) the amount of funding remaining available for obligation by the State at the end of such fiscal year; and

“(iii) changes in the obligated, unexpended balance for the State;

“(B) PROGRAMMATIC DATA.—The data described in subparagraph (A) shall include—

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“(i) the amount of funding by each apportioned and allocated program for which the State received funding under this title;

“(ii) the amount of funding transferred between programs by the State during the fiscal year using the authority provided under section 126; and

“(iii) the amount and program category of Federal funds exchanged as described in section 106(g)(6).

SEC. 1203. EMERGENCY RELIEF.

15 (a) IN GENERAL.—Section 125 of title 23, United States Code, is amended—

(1) in subsection (a)(1) by inserting ‘ ‘wildfire,’ ’ after ‘ ‘severe storm,’ ’ ;

“(3) SPECIAL RULE FOR BRIDGE PROJECTS.—

In no case shall funds be used under this section for the repair or reconstruction of a bridge—

“(A) 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;

SEC. 2203. MOBILITY INNOVATION.

“(i) DEFINITIONS.—In this section:

“(1) DEADHEAD VEHICLE MILES.—The term ‘deadhead vehicle miles’ means the miles that a vehicle travels when out of revenue service, including leaving or returning to the garage or yard facility, changing routes, when there is no expectation of carrying revenue passengers, and any miles traveled by a private operator without a passenger.

“(2) MOBILITY AS A SERVICE.—The term ‘mobility as a service’ means services that constitute the integration of mobility on demand services and public transportation that are available and accessible to all travelers, provide multimodal trip planning, and a unified payment system.

“(3) MOBILITY ON DEMAND.—The term ‘mobility on demand’ means an on-demand transportation service shared among individuals, either concurrently or one after another.

SEC. 5306. HYPERLOOP TRANSPORTATION.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation, acting through the Nontraditional and Emerging Transportation Technology Council of the Department of Transportation, shall issue guidance to provide a clear regulatory framework for the safe deployment of hyperloop transportation.

(b) ELEMENTS.—In developing the guidance under subsection (a), the Council shall—

(1) consider safety, oversight, environmental, project delivery, and other regulatory requirements prescribed by various modal administrations in the Department;

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(2) clearly delineate between relevant authorities with respect to hyperloop transportation in the Department and provide project sponsors with a single point of access to the Department to inquire about projects, plans, and proposals;

(3) establish clear, coordinated procedures for the regulation of hyperloop transportation projects; and

(4) develop and establish department-wide processes, solutions, and best practices for identifying, managing, and resolving matters regarding hyperloop transportation subject to the Department’s jurisdiction.

SEC. 5401. STATE SURFACE TRANSPORTATION SYSTEM FUNDING PILOTS.

Section 6020 of the FAST Act (23 U.S.C. 503 note) is amended—

(1) by striking subsection (b) and inserting the following:

“(b) ELIGIBILITY.—

“(1) APPLICATION.—To be eligible for a grant under this section, a State or group of States shall submit to the Secretary an application in such form and containing such information as the Secretary may require.

“(2) ELIGIBLE PROJECTS.—The Secretary may provide grants to States under this section for the following projects:

“(A) STATE PILOT PROJECTS.—A pilot project to demonstrate a user-based alternative revenue mechanism in a State that has received not more than 1 grant under this section.

“(B) STATE IMPLEMENTATION PROJECTS.—A project—

“(i) to implement a user-based alternative revenue mechanism that collects revenue to be expended on projects for the surface transportation system of the State; and

“(ii) that is comprised of activities not substantially similar in manner or scope to activities previously carried out by the recipient with a grant for a pilot project to demonstrate such a mechanism under this section, unless such activities are essential to the implementation of a surface transportation system funding alternative.”;

(2) in subsection (c)—

(A) in paragraph (1) by striking “2 or more future”; and

(B) by adding at the end the following:

“(6) To test solutions to ensure the privacy and security of data collected for the purpose of implementing a user-based alternative revenue mechanism.”;

(3) in subsection (d) by striking “to test the design, acceptance, and implementation of a user based alternative revenue mechanism” and inserting “to test the design and acceptance of, or implement, a user-based alternative revenue mechanism”;

(4) in subsection (g) by striking “50 percent” and inserting “80 percent”;

(5) in subsection (i)—

(A) in the heading by striking “BIENNIAL” and inserting “ANNUAL”;

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(B) by striking “2 years after the date of enactment of this Act” and inserting “1 year after the date of enactment of the INVEST in America Act”;

(C) by striking “every 2 years thereafter” and inserting “every year thereafter”; and

(D) by inserting “and containing a determination of the characteristics of the most successful mechanisms with the highest potential for future widespread deployment” before the period at the end; and

(6) by striking subsections (j) and (k) and inserting the following:

“(j) FUNDING.—Of amounts made available to carry out this section—

“(1) for fiscal year 2022, \$17,500,000 shall be used to carry out projects under subsection (b)(2)(A) and \$17,500,000 shall be used to carry out projects under subsection (b)(2)(B);

“(2) for fiscal year 2023, \$15,000,000 shall be used to carry out projects under subsection (b)(2)(A) and \$20,000,000 shall be used to carry out projects under subsection (b)(2)(B);

“(3) for fiscal year 2024, \$12,500,000 shall be used to carry out projects under subsection (b)(2)(A) and \$22,500,000 shall be used to carry out projects under subsection (b)(2)(B); and

“(4) for fiscal year 2025, \$10,000,000 shall be used to carry out projects under subsection (b)(2)(A) and \$25,000,000 shall be used to carry out projects under subsection (b)(2)(B).

“(k) FUNDING FLEXIBILITY.—Funds made available in a fiscal year for making grants for projects under subsection (b)(2) that are not expended in such fiscal year may be made available in the following fiscal year for projects under such subsection or for the national surface transportation system funding pilot under section 5402 of the INVEST in America Act.”.

SEC. 5402. NATIONAL SURFACE TRANSPORTATION SYSTEM FUNDING PILOT.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of Transportation, in coordination with the Secretary of the Treasury, shall establish a pilot program to demonstrate a national motor vehicle per-mile user fee to restore and maintain the long-term solvency of the Highway Trust Fund and achieve and maintain a state of good repair in the surface transportation system.

(2) OBJECTIVES.—The objectives of the pilot program are to—

(A) test the design, acceptance, implementation, and financial sustainability of a national per-mile user fee;

(B) address the need for additional revenue for surface transportation infrastructure and a national per-mile user fee; and

(C) provide recommendations regarding adoption and implementation of a national per mile user fee.

(b) PARAMETERS.—In carrying out the pilot program established under subsection (a), the Secretary of Transportation, 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 and the District of Columbia;

(3) ensure an equitable geographic distribution by population among volunteer participants;

(4) include commercial vehicles and passenger motor vehicles in the pilot program; and

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(5) use components of, and information from, the States selected for the State surface transportation system funding pilot program under section 6020 of the FAST Act (23 U.S.C. 503 note).

(c) METHODS.—

(1) TOOLS.—In selecting the methods described in subsection (b)(1), the Secretary of Transportation shall coordinate with entities that voluntarily provide to the Secretary for use in the 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 auto makers.

(D) Motor vehicle data obtained by car insurance companies.

(E) Data from the States selected for the State surface transportation system funding pilot program under section 6020 of the FAST Act (23 U.S.C. 503 note).

(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 methods under paragraph (1) are selected for the pilot program.

(B) VOLUNTEER PARTICIPANTS.—In a manner that the Secretary considers appropriate, the Secretary shall provide each selected method to each volunteer participant.

(d) PER-MILE USER FEES.—For the purposes of the pilot program established in subsection (a), the Secretary of the Treasury shall establish on an annual basis—

(1) for passenger vehicles and light trucks, a per-mile user fee that is equivalent to—

(A) the average annual taxes imposed by sections 4041 and 4081 of the Internal Revenue Code of 1986 with respect to gasoline or any other fuel used in a motor vehicle (other than aviation gasoline or diesel), divided by

(B) the total vehicle miles traveled by passenger vehicles and light trucks; and

(2) for medium- and heavy-duty trucks, a per mile user fee that is equivalent to—

(A) the average annual taxes imposed by sections 4041 and 4081 of such Code with respect to diesel fuel, divided by

(B) the total vehicle miles traveled by medium- and heavy-duty trucks.

Taxes shall only be taken into account under the preceding sentence to the extent taken into account in determining appropriations to the Highway Trust Fund under section 9503(b) of such Code, and the amount so determined shall be reduced to account for transfers from such fund under paragraphs (3), (4), and (5) of section 9503(c) of such Code.

(e) VOLUNTEER PARTICIPANTS.—The Secretary of Transportation, in coordination with the Secretary of the Treasury, shall—

(1) ensure, to the extent practicable, that an appropriate number of volunteer participants participate in the pilot program; and

(2) issue policies to—

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(A) protect the privacy of volunteer participants; and

(B) secure the data provided by volunteer participants.

(f) PUBLIC AWARENESS CAMPAIGN.—The Secretary of Transportation may carry out a public awareness campaign to increase public awareness regarding a national per-mile user fee, including distributing information related to the pilot program carried out under this section, information from the State surface transportation system funding pilot program under section 6020 of the FAST Act (23 U.S.C. 503 note).

(g) REVENUE COLLECTION.—The Secretary of the Treasury, in coordination with the Secretary of Transportation, shall establish a mechanism to collect per-mile user fees established under subsection (d) from volunteer participants. Such mechanism—

(1) may be adjusted as needed to address technical challenges; and

(2) may allow third-party vendors to collect the per-mile user fees and forward such fees to the Treasury.

(h) AGREEMENT.—The Secretary of Transportation 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.

(i) LIMITATION.—Any revenue collected through the mechanism established in subsection (g) shall not be considered a toll under section 301 of title 23, United States Code.

(j) HIGHWAY TRUST FUND.—The Secretary of the Treasury shall ensure that any revenue collected under subsection (f) is deposited into the Highway Trust Fund.

(k) REFUND.—Not more than 45 days after the end of each calendar quarter in which a volunteer participant has participated in the pilot program, the Secretary of the Treasury shall calculate and issue an equivalent refund to volunteer participants for applicable Federal motor fuel taxes under section 4041 and section 4081 of the Internal Revenue Code of 1986, the applicable battery tax under section 4111 of such Code, or both, if applicable.

(l) 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 of Transportation and the Secretary of the Treasury 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 report that includes an analysis of—

(1) whether the objectives described in subsection (a)(2) were achieved;

(2) how volunteer protections in subsection (f)(2) were complied with; and

(3) whether per-mile user fees can maintain the long-term solvency of the Highway Trust Fund and achieve and maintain a state of good repair in the surface transportation system.

(m) SUNSET.—The pilot program established under this section shall expire on the date that is 4 years after the date on which volunteer participants begin participating in such program.

(n) DEFINITIONS.—In this section, the following definitions apply:

(1) COMMERCIAL VEHICLE.—The term “commercial vehicle” has the meaning given the term commercial motor vehicle in section 31101 of title 49, United States Code.

(2) HIGHWAY TRUST FUND.—The term “Highway Trust Fund” means the Highway Trust Fund established under section 9503 of the Internal Revenue Code of 1986.

(3) LIGHT TRUCK.—The term “light truck” has the meaning given the term in section 523.2 of title 49, Code of Federal Regulations.

(4) 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.

(5) 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.

(6) VOLUNTEER PARTICIPANT.—The term “volunteer participant” means—

- (A) an owner or lessee of an individual private 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.

SEC. 6006. STUDY OF FREIGHT TRANSPORTATION FEE.

(a) STUDY.—Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of the Treasury and the Commissioner of the Internal Revenue Service, shall establish a joint task force to study the establishment and administration of a fee on multimodal freight surface transportation services.

(b) CONTENTS.—The study required under subsection (a) shall include the following:

- (1) An estimation of the revenue that a fee of up to 1 percent on freight transportation services would raise.
- (2) An identification of the entities that would be subject to such a fee paid by the owners or suppliers of cargo.
- (3) An analysis of the administrative capacity of Federal agencies and freight industry participants to collect such a fee and ensure compliance with fee requirements.
- (4) Policy options to prevent avoidance of such a fee, including diversion of freight services to foreign countries.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Transportation and Infrastructure and the Committee on Ways and Means of the House of Representatives and the Committee on Environment and Public Works and the Committee on Finance of the Senate the study required under subsection (a).

Extracts from the “INVEST in America Act”, released June 3, 2020

TITLE VII—TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT

SEC. 7001. TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT.

(a) CREDITWORTHINESS.—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”.

(b) NON-FEDERAL SHARE.—Section 603(b) of title 23, United States Code, is amended by striking paragraph (8) and inserting the following:

“(8) NON-FEDERAL SHARE.—Notwithstanding paragraph (9) and section 117(j)(2), the proceeds of a secured loan under the TIFIA program shall be considered to be part of the non-Federal share of project costs required under this title or chapter 53 of title 49, if the loan is repayable from non-Federal funds.”.

(c) EXEMPTION OF FUNDS FROM TIFIA FEDERAL SHARE REQUIREMENT.—Section 603(b)(9) of title 23, United States Code, is amended by adding at the end the following:

“(C) TERRITORIES.—Funds provided for a territory under section 165(c) shall not be considered Federal assistance for purposes of subparagraph (A).”.

(d) 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—

“(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.

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“(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 credit worthiness review of the project.”.

(e) ASSISTANCE TO SMALL PROJECTS.—Section 605(f)(1) of title 23, United States Code, is amended by striking “\$2,000,000” and inserting “\$3,000,000”.

(f) APPLICATION PROCESS REPORT.—Section 609(b)(2)(A) of title 23, United States Code, is amended—

(1) in clause (iv) by striking “and”;

(2) in clause (v) by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(vi) whether the project is located in a metropolitan statistical area, micropolitan statistical area, or neither (as such areas are defined by the Office of Management and Budget).”.

(g) 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.”.