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(Original Signature of Member)

114TH CONGRESS  
1ST SESSION

# H. R.

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To amend title 23, United States Code, to direct the Secretary of Transportation to establish an innovation in surface transportation program, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

Mr. RODNEY DAVIS of Illinois introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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# A BILL

To amend title 23, United States Code, to direct the Secretary of Transportation to establish an innovation in surface transportation 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 “Innovation in Surface  
5 Transportation Act of 2015”.

1 **SEC. 2. INNOVATION IN SURFACE TRANSPORTATION PRO-**  
2 **GRAM.**

3 (a) IN GENERAL.—Chapter 1 of title 23, United  
4 States Code, is amended by inserting after section 104 the  
5 following:

6 **“§ 105. Innovation in surface transportation program**

7 “(a) IN GENERAL.—The Secretary, in coordination  
8 with State transportation departments, shall establish an  
9 innovation in surface transportation program in accord-  
10 ance with the requirements of this section.

11 “(b) PURPOSES.—The purposes of the program shall  
12 be—

13 “(1) to increase the return on investment in the  
14 Nation’s surface transportation system;

15 “(2) to make the Nation’s surface transpor-  
16 tation system more reliable, safe, and efficient by  
17 advancing innovative projects selected through State  
18 competitions;

19 “(3) to increase input from local government  
20 and stakeholders on projects receiving funding; and

21 “(4) to leverage Federal highway dollars further  
22 through in-State competitions.

23 “(c) GRANTS.—

24 “(1) IN GENERAL.—A State shall make grants  
25 under this section to eligible entities for eligible  
26 projects to be carried out in the State using funds

1 reserved by the State for a fiscal year under sub-  
2 section (e)(1).

3 “(2) STATE COMPETITIONS.—

4 “(A) IN GENERAL.—For the purposes of  
5 making grants under this section, a State shall  
6 conduct a competition each fiscal year under  
7 which the State will accept grant applications  
8 submitted by eligible entities.

9 “(B) COMPETITION DATES.—A State shall  
10 conduct a competition under subparagraph  
11 (A)—

12 “(i) not later than 180 days after the  
13 date of enactment of this section; and

14 “(ii) not later than 30 days after the  
15 first day of each fiscal year beginning after  
16 such date of enactment.

17 “(3) SELECTION CRITERIA.—

18 “(A) ESTABLISHMENT OF SELECTION CRI-  
19 TERIA.—The State selection panel of each State  
20 shall establish and make available to the public  
21 the project selection criteria that will be used by  
22 the State in conducting competitions under  
23 paragraph (2).

24 “(B) FACTORS.—The project selection cri-  
25 teria of a State shall provide for the approval

1 of project applications based on the extent to  
2 which the projects—

3 “(i) improve safety for all users of the  
4 transportation network;

5 “(ii) strengthen the contribution of a  
6 national freight network to the Nation’s  
7 economic competitiveness;

8 “(iii) promote multimodal  
9 connectivity;

10 “(iv) strengthen return on investment,  
11 particularly the impact on local economic  
12 development;

13 “(v) improve access to jobs, sources of  
14 labor, schools, and opportunity;

15 “(vi) optimize, through better design  
16 and operation, the usage and efficiency of  
17 existing transportation facilities;

18 “(vii) improve the reliability of the  
19 transportation system of the United  
20 States;

21 “(viii) encourage innovation and the  
22 use of technology; or

23 “(ix) further the purposes described in  
24 subsection (b).

1           “(C) SPECIAL CONSIDERATION OF CER-  
2 TAIN FACTORS.—In addition to the factors  
3 specified in subparagraph (B), the project selec-  
4 tion criteria of a State may—

5           “(i) provide that special consideration  
6 in the approval of project applications is  
7 given to eligible projects that—

8           “(I) maximize the amount of pro-  
9 posed project costs that can be borne  
10 by the applicant from non-Federal  
11 sources; or

12           “(II) have prior significant Fed-  
13 eral or non-Federal investment; and

14           “(ii) give equal consideration to dif-  
15 ferences in the fiscal capacity of public eli-  
16 gible entities.

17           “(D) FUNDING DISTRIBUTION.—The  
18 project selection criteria of a State shall take  
19 into consideration the equitable distribution of  
20 funds by geography and population.

21           “(4) SPECIAL RULE FOR PRIVATE TRANSPOR-  
22 TATION PROVIDERS.—An eligible entity that is a pri-  
23 vate transportation provider may submit a project  
24 application in a State competition conducted under

1 paragraph (2) only if the application is sponsored by  
2 a public entity.

3 “(d) INNOVATION IN SURFACE TRANSPORTATION SE-  
4 LECTION PANEL.—

5 “(1) IN GENERAL.—A State, in coordination  
6 with local transportation stakeholders, shall establish  
7 an innovation in surface transportation selection  
8 panel in accordance with this subsection.

9 “(2) DUTIES.—A State selection panel shall—

10 “(A) review project applications submitted  
11 to the State during a competition conducted  
12 under subsection (c)(2); and

13 “(B) approve and disapprove the project  
14 applications based on the criteria set forth in  
15 subsection (c)(3).

16 “(3) MEMBERSHIP.—A State selection panel  
17 shall be composed of the following members to be  
18 appointed by the State—

19 “(A) not fewer than 3 individuals rep-  
20 resenting the State’s transportation depart-  
21 ment;

22 “(B) not fewer than 3 individuals rep-  
23 resenting local governments in the State, with  
24 at least 1 representative from each of—

1                   “(i) a jurisdiction with a population of  
2                   50,000 individuals or fewer;

3                   “(ii) a jurisdiction with a population  
4                   of more than 50,000 individuals and not  
5                   more than 1,000,000 individuals; and

6                   “(iii) a jurisdiction with a population  
7                   of more than 1,000,000 individuals, if ap-  
8                   plicable; and

9                   “(C) not fewer than 3 individuals rep-  
10                  resenting metropolitan planning organizations,  
11                  councils of governments, rural planning organi-  
12                  zations, and other joint powers authorities in  
13                  the State charged with transportation respon-  
14                  sibilities, including Indian tribes and tribal coa-  
15                  litions.

16                  “(4) ADDITIONAL MEMBERS.—In addition to  
17                  the members appointed under paragraph (3), a  
18                  State selection panel shall be composed of 9 mem-  
19                  bers to be appointed by the State, in coordination  
20                  with local transportation stakeholders, from among  
21                  individuals representing—

22                         “(A) local chambers of commerce;

23                         “(B) transportation management organiza-  
24                         tions, travel and tourism boards, economic de-

1           velopment organizations, and other coalitions of  
2           employers and commerce;

3           “(C) local air quality boards or local orga-  
4           nizations supporting improved air quality;

5           “(D) State safety boards or local organiza-  
6           tions supporting safety;

7           “(E) transit agencies;

8           “(F) port authorities, if applicable;

9           “(G) active transportation organizations;

10          “(H) public interest organizations; and

11          “(I) labor unions.

12          “(5) DISTRIBUTION OF REPRESENTATIVES.—A  
13          State shall appoint members to the State’s selection  
14          panel in a manner such that—

15               “(A) the number of members appointed  
16               under each of paragraphs (3)(A), (3)(B), and  
17               (3)(C) is equal; and

18               “(B) at least 1 member is appointed under  
19               paragraph (4) from each of the entities de-  
20               scribed in subparagraphs (A) through (H) of  
21               paragraph (4), if applicable.

22          “(6) GEOGRAPHIC DIVERSITY.—The members  
23          of a State selection panel shall be geographically di-  
24          verse, to the extent practicable.

1           “(7) REPRESENTATION LIMITATION.—Except  
2 for the representatives described in paragraphs  
3 (3)(A) and (3)(B)(iii), no entity may be represented  
4 on a State selection panel for more than 2 consecu-  
5 tive years if a comparable entity can also be rep-  
6 resented on the panel.

7           “(8) CONTINUITY.—A State shall appoint mem-  
8 bers to the State’s selection panel using a 2-tiered  
9 rotation process that ensures continuity of the panel  
10 by rotating the membership of the panel on a stag-  
11 gered basis.

12           “(e) FUNDING.—

13           “(1) RESERVATION OF FUNDS.—On October 1  
14 of each fiscal year, a State shall make the following  
15 reservations of funds:

16           “(A) NATIONAL HIGHWAY PERFORMANCE  
17 PROGRAM.—The State shall reserve 10 percent  
18 of the amount apportioned to the State for the  
19 fiscal year under section 104(b)(1)—

20                   “(i) for carrying out State competi-  
21 tions under this section; and

22                   “(ii) for making grants under this sec-  
23 tion for eligible projects.

24           “(B) HIGHWAY SAFETY IMPROVEMENT  
25 PROGRAM.—The State shall reserve not less

1           than 33 percent of the amount apportioned to  
2           the State for the fiscal year under section  
3           104(b)(3) for making grants under this section  
4           for eligible projects that are projects described  
5           in section 148.

6           “(C) CONGESTION MITIGATION AND AIR  
7           QUALITY IMPROVEMENT PROGRAM.—

8           “(i) RESERVATION OF FUNDS.—The  
9           State shall reserve not less than 33 percent  
10          of the amount apportioned to the State for  
11          the fiscal year under section 104(b)(4) and  
12          unobligated balances for section 104(b)(4)  
13          from the prior fiscal year for making  
14          grants under this section for eligible  
15          projects that are projects described in sec-  
16          tion 149(b).

17          “(ii) USE OF RESERVED FUNDS.—If  
18          the State has one or more nonattainment  
19          areas (as defined in section 171(2) of the  
20          Clean Air Act (42 U.S.C. 7501(2))), the  
21          State shall use amounts reserved under  
22          this subparagraph for making grants  
23          under this section for eligible projects de-  
24          scribed in section 149(b) in such areas.

1           “(D) SURFACE TRANSPORTATION PRO-  
2           GRAM.—The State shall reserve not less than  
3           33 percent of the amount allocated to the State  
4           for the fiscal year under section 133(d)(1)(B)  
5           for making grants under this section for eligible  
6           projects.

7           “(E) TRANSPORTATION ALTERNATIVES  
8           PROGRAM.—The State shall reserve 33 percent  
9           of the amount reserved by the State for the fis-  
10          cal year under section 213(e)(1)(B) for making  
11          grants under this section for eligible projects  
12          that are projects described in section 213(b).

13          “(2) SPECIAL RULE.—Any funds that a State  
14          directly suballocates to metropolitan areas or direct  
15          recipients of funds under section 5307 of title 49 or  
16          awards through an open statewide competition to eli-  
17          gible entities shall be excluded from the funds from  
18          which reservations are to be made under paragraph  
19          (1).

20          “(3) NON-AWARDED FUNDS.—For each fiscal  
21          year, a State shall—

22                 “(A) determine—

23                         “(i) the total amount of funds, if any,  
24                         that have been reserved by the State for  
25                         the fiscal year under paragraph (1) but

1 have not been awarded by the State in  
2 grants under this section on or before the  
3 last day of the fiscal year; and

4 “(ii) the total amount of funds, if any,  
5 that have been awarded in grants by the  
6 State under this section but remain unobli-  
7 gated by the grant recipient after the last  
8 day of the 5-year period beginning on the  
9 date on which the grant was awarded; and

10 “(B) distribute or redistribute such funds,  
11 as appropriate, using the process under sub-  
12 section (c)(2).

13 “(f) TECHNICAL ASSISTANCE FOR CERTAIN  
14 AREAS.—

15 “(1) RURAL ELIGIBILITY.—A State shall sup-  
16 port development of project applications under this  
17 section if requested by an eligible rural local govern-  
18 ment.

19 “(2) RESERVATION OF FUNDS.—The State may  
20 reserve not more than 0.25 percent of the funds re-  
21 served for a fiscal year under subsection (e) to meet  
22 specific requests for support from eligible rural local  
23 governments.

24 “(g) DEFINITIONS.—In this section, the following  
25 definitions apply:

1           “(1) ELIGIBLE ENTITY.—The term ‘eligible en-  
2           tity’ means—

3                   “(A) a local government;

4                   “(B) a metropolitan planning organization;

5                   “(C) a regional transportation authority;

6                   “(D) a transit agency;

7                   “(E) a tribal government;

8                   “(F) a private provider of public transpor-  
9           tation;

10                  “(G) a nonprofit transportation organiza-  
11           tion;

12                  “(H) a port authority;

13                  “(I) a joint power authority; or

14                  “(J) a local rail authority.

15           “(2) ELIGIBLE PROJECT.—The term ‘eligible  
16           project’ means—

17                   “(A) a project eligible under—

18                           “(i) section 133(b), relating to the  
19                           surface transportation program;

20                           “(ii) section 148, relating to the high-  
21                           way safety improvement program;

22                           “(iii) section 149(b), relating to the  
23                           congestion mitigation and air quality im-  
24                           provement program; or

1                   “(iv) section 213(b), relating to the  
2                   transportation alternatives program; or

3                   “(B) a surface transportation project that  
4                   will improve the movement of goods along a pri-  
5                   mary freight network, including multimodal fa-  
6                   cilities near a primary freight route.

7                   “(3) PROGRAM.—The term ‘program’, except as  
8                   otherwise specifically provided, means the innovation  
9                   in surface transportation program established under  
10                  this section.

11                  “(4) RURAL LOCAL GOVERNMENT.—The term  
12                  ‘rural local government’ means a local government  
13                  for an area that is not an urbanized area (as defined  
14                  by the Census Bureau).

15                  “(5) STATE SELECTION PANEL.—The term  
16                  ‘State selection panel’ means an innovation in sur-  
17                  face transportation selection panel established by a  
18                  State under subsection (d).

19                  “(h) TRANSPARENCY.—Not later than 30 days after  
20 a State has selected projects for a fiscal year to receive  
21 funding under this section, the State shall make available,  
22 in a publically accessible medium that is easy to navi-  
23 gate—

24                  “(1) the criteria and methodology used to select  
25                  the projects;

1           “(2) a list of all the projects for which funding  
2 was requested, including, for each such project—

3           “(A) the total estimated project cost; and

4           “(B) the amount of funding requested;

5           “(3) a list of projects that were selected to re-  
6 ceive funding under this section, including, for each  
7 such project—

8           “(A) the amount of funding requested;

9           “(B) the amount of funding granted; and

10           “(C) the source of the non-Federal share  
11 of cost of the project; and

12           “(4) the ranking and scoring of all projects for  
13 which funding was requested.

14           “(i) REPORTING REQUIREMENTS.—

15           “(1) STATE REPORTS.—Not later than 180  
16 days after the last day of each fiscal year, a State  
17 shall submit to the Secretary a report that de-  
18 scribes—

19           “(A) the information required under sub-  
20 section (h);

21           “(B) the organizations that were rep-  
22 resented on the State’s selection panel;

23           “(C) the portion of the funds available to  
24 the State for the program that have been obli-  
25 gated; and

1           “(D) the percentage of the funds available  
2           to the State for the program that were used for  
3           administrative expenses.

4           “(2) BIENNIAL REPORT TO CONGRESS.—Not  
5           later than September 30, 2017, and biennially there-  
6           after, the Secretary shall submit a consolidated re-  
7           port on the program, including a review of the State  
8           reports submitted pursuant to paragraph (1), to—

9                   “(A) the Committee on Banking, Housing,  
10                   and Urban Affairs of the Senate;

11                   “(B) the Committee on Commerce,  
12                   Science, and Transportation of the Senate;

13                   “(C) the Committee on Environment and  
14                   Public Works of the Senate; and

15                   “(D) the Committee on Transportation  
16                   and Infrastructure of the House of Representa-  
17                   tives.

18           “(3) AVAILABILITY.—The Secretary shall make  
19           the report submitted under paragraph (2) available  
20           on the public Internet Web site of the Department  
21           of Transportation.

22           “(j) SPECIAL RULE FOR STATES WITH COMPETITIVE  
23           AND SUBALLOCATED PROGRAMS.—

24                   “(1) IN GENERAL.—The Secretary may permit  
25           a State to distribute funding described in subpara-

1 graphs (A), (B), (C), (D), or (E) of subsection  
2 (e)(1) through the mechanisms described in para-  
3 graph (2) if the Secretary certifies that the State is  
4 distributing such funding in a manner that fulfills  
5 the purposes of this section.

6 “(2) DISTRIBUTION MECHANISMS.—Distribu-  
7 tion mechanisms that qualify under paragraph (1)  
8 include—

9 “(A) an open and competitive State pro-  
10 gram that is substantially similar to the re-  
11 quirements of this section;

12 “(B) direct suballocation to metropolitan  
13 areas of a majority of all funds—

14 “(i) apportioned to the State under  
15 sections 104(b)(1), 104(b)(2), 104(b)(3),  
16 and 104(b)(4); and

17 “(ii) allocated to the State under sec-  
18 tion 213(a)(1); and

19 “(C) a competitive State program or direct  
20 suballocation to metropolitan areas or direct re-  
21 cipients of funds under section 5307 of title 49  
22 of more than 95 percent of the funds—

23 “(i) apportioned to the State under  
24 section 104(b)(1), 104(b)(2), 104(b)(3), or  
25 104(b)(4); or

1                   “(ii) allocated to the State under sec-  
2                   tion 213(a)(1).

3                   “(3) PUBLICATION IN FEDERAL REGISTER.—  
4           Before making a certification under paragraph  
5           (1)(B), the Secretary shall—

6                   “(A) publish in the Federal Register the  
7           Secretary’s intent to make the certification;

8                   “(B) provide the public not fewer than 90  
9           days to comment on the proposed certification;  
10           and

11                   “(C) take into consideration any comments  
12           received during the comment period.

13                   “(4) NOTICE TO CONGRESS.—At least 15 days  
14           before making a certification under paragraph  
15           (1)(B), the Secretary shall submit a notice to the  
16           congressional committees referred to in subsection  
17           (i)(2) and the members of the State’s congressional  
18           delegation that includes—

19                   “(A) a notification of the Secretary’s in-  
20           tent to make the certification; and

21                   “(B) a justification for the proposed cer-  
22           tification.”.

23           (b) CLERICAL AMENDMENT.—The analysis for chap-  
24   ter 1 of title 23, United States Code, is amended by insert-  
25   ing after the item relating to section 104 the following:

“105. Innovation in surface transportation program.”.