

113TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

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.

---

IN THE SENATE OF THE UNITED STATES

Mr. BOOKER (for himself, Mr. WICKER, Mr. BEGICH, Mr. COCHRAN, and Mr. CASEY) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

---

**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 2014”.

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) PURPOSES.—The purposes of this section are—

8 “(1) to increase the return on investment in the  
9 surface transportation system of the United States;

10 “(2) to make the surface transportation system  
11 of the United States more reliable, safe, and effi-  
12 cient by advancing innovative projects selected  
13 through State competitions;

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

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

18 “(b) DEFINITIONS.—In this section:

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

21 “(A) a local government;

22 “(B) a metropolitan planning organization;

23 “(C) a regional transportation authority;

24 “(D) a transit agency;

25 “(E) a tribal government;



1           “(3) PROGRAM.—The term ‘program’, except as  
2 otherwise specifically provided, means the ‘innova-  
3 tion in surface transportation program’ established  
4 under this section.

5           “(4) RURAL LOCAL GOVERNMENT.—The term  
6 ‘rural local government’ means a local government  
7 for an area that is not an urbanized area (as defined  
8 by the Census Bureau).

9           “(5) STATE SELECTION PANEL.—The term  
10 ‘State selection panel’ means an innovation in sur-  
11 face transportation selection panel established by a  
12 State under subsection (e).

13           “(c) ESTABLISHMENT.—The Secretary, in coordina-  
14 tion with State transportation departments, shall establish  
15 an innovation in surface transportation program in ac-  
16 cordance with the requirements of this section.

17           “(d) GRANTS.—

18           “(1) IN GENERAL.—A State shall make grants  
19 under this section to eligible entities for eligible  
20 projects to be carried out in the State using funds  
21 reserved by the State for a fiscal year under sub-  
22 section (j)(1).

23           “(2) STATE COMPETITIONS.—

24           “(A) IN GENERAL.—For the purposes of  
25 making grants under this section, a State shall

1           conduct a competition each fiscal year under  
2           which the State will accept grant applications  
3           submitted by eligible entities.

4           “(B) COMPETITION DATES.—A State shall  
5           conduct a competition under subparagraph  
6           (A)—

7                   “(i) not later than 180 days after the  
8                   date of enactment of the Innovation in  
9                   Surface Transportation Act of 2014; and

10                   “(ii) not later than 30 days after the  
11                   first day of each fiscal year beginning after  
12                   the date of enactment of the Innovation in  
13                   Surface Transportation Act of 2014.

14           “(3) SELECTION CRITERIA.—

15                   “(A) ESTABLISHMENT.—The State selec-  
16                   tion panel under subsection (e) shall establish  
17                   and make available to the public the project se-  
18                   lection criteria that will be used by the State in  
19                   conducting competitions under paragraph (2).

20                   “(B) FACTORS.—The project selection cri-  
21                   teria of a State shall provide for the approval  
22                   of project applications based on the extent to  
23                   which the projects—

24                           “(i) improve the safety for all users of  
25                           the transportation network;



1 specified in subparagraph (B), the project selec-  
2 tion criteria of a State shall provide that special  
3 consideration be given equally—

4 “(i) to projects that—

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

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

11 “(ii) to projects in public jurisdictions  
12 with high poverty areas (as defined by the  
13 Census Bureau).

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

18 “(4) SPECIAL RULE FOR PRIVATE TRANSPOR-  
19 TATION PROVIDERS.—An eligible entity that is a pri-  
20 vate transportation provider may submit a project  
21 application in a State competition conducted under  
22 paragraph (2) only if the application is sponsored by  
23 a public entity.

24 “(e) INNOVATION IN SURFACE TRANSPORTATION SE-  
25 LECTION PANEL.—

1           “(1) IN GENERAL.—A State (including the Gov-  
2           ernor and State Department of Transportation), in  
3           coordination with local transportation stakeholders,  
4           shall establish an innovation in surface transpor-  
5           tation selection panel in accordance with this sub-  
6           section.

7           “(2) DUTIES.—A State selection panel shall—  
8           “(A) review project applications submitted  
9           to the State during a competition conducted  
10          under subsection (d)(2); and

11          “(B) approve and disapprove the project  
12          applications based on the criteria set forth in  
13          subsection (d)(3).

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

17          “(A) Not fewer than 3 individuals rep-  
18          resenting the transportation department of the  
19          State.

20          “(B)(i) Not fewer than 3 individuals rep-  
21          resenting local governments in the State, with  
22          at least 1 representative from each of—

23                  “(I) a jurisdiction with a population  
24                  of 50,000 individuals or fewer;



1                   “(II) a jurisdiction with a population  
2                   of more than 50,000 individuals and not  
3                   more than 1,000,000 individuals; and

4                   “(III) a jurisdiction with a population  
5                   of more than 1,000,000 individuals, if ap-  
6                   plicable.

7                   “(ii) If a State does not have a jurisdiction  
8                   that meets the criteria of 1 of the subclauses of  
9                   clause (i), the selection panel shall select a rep-  
10                  resentative from a jurisdiction eligible under  
11                  any of the other subclauses in order to secure  
12                  the appropriate number of representatives pur-  
13                  suant to this subparagraph.

14                  “(C) Not fewer than 3 individuals rep-  
15                  resenting metropolitan planning organizations,  
16                  councils of governments, rural planning organi-  
17                  zations, and other joint powers authorities in  
18                  the State charged with transportation respon-  
19                  sibilities, including Indian tribes and tribal coa-  
20                  litions.

21                  “(4) ADDITIONAL MEMBERS.—In addition to  
22                  the members appointed under paragraph (3), a  
23                  State selection panel shall be composed of members  
24                  to be appointed by the State, in coordination with

1 local transportation stakeholders, from among indi-  
2 viduals representing—

3 “(A) local chambers of commerce, includ-  
4 ing transportation management organizations,  
5 travel and tourism boards, and other coalitions  
6 of employers and commerce;

7 “(B) local air quality boards or organiza-  
8 tions supporting improved air quality;

9 “(C) State safety boards or local organiza-  
10 tions supporting safety;

11 “(D) transit agencies;

12 “(E) port authorities, if applicable;

13 “(F) active transportation organizations;

14 “(G) public interest organizations; and

15 “(H) public health quality boards or local  
16 organizations supporting improving public  
17 health.

18 “(5) DISTRIBUTION OF REPRESENTATIVES.—A  
19 State shall appoint members to the section panel of  
20 the State in a manner such that—

21 “(A) the number of members appointed  
22 under each of subparagraphs (A), (B), and (C)  
23 of paragraph (3) is equal; and

24 “(B) not less than 1 member, and not  
25 more than 9 members, appointed under para-

1 graph (4) shall be described in each of subpara-  
2 graphs (A), (B), (C), (D), (E) if applicable,  
3 (F), (G), and (H) of paragraph (4).

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

7 “(7) REPRESENTATION LIMITATION.—Except  
8 for the representatives described in paragraphs  
9 (3)(A) and (3)(B), no entity may be represented on  
10 a State selection panel for more than 2 consecutive  
11 years if a comparable entity can also be represented  
12 on the panel.

13 “(8) CONTINUITY.—A State shall appoint mem-  
14 bers to the selection panel of the State using a 2-  
15 tiered rotation process that ensures continuity of the  
16 panel by rotating the membership of the panel on a  
17 staggered basis.

18 “(f) TECHNICAL ASSISTANCE FOR CERTAIN  
19 AREAS.—

20 “(1) RURAL ELIGIBILITY.—The State shall sup-  
21 port development of project applications under this  
22 section if requested by an eligible rural local govern-  
23 ment.

24 “(2) RESERVATION OF FUNDS.—The State may  
25 reserve not more than 0.25 percent of the funds re-

1 served for a fiscal year under subsection (j) to meet  
2 specific requests for support from eligible rural local  
3 governments.

4 “(g) TRANSPARENCY.—Not later than 30 days after  
5 a State has selected projects for a fiscal year to receive  
6 funding under this section, the State shall make available,  
7 in a publically accessible medium that is easy to navi-  
8 gate—

9 “(1) the criteria and methodology used to select  
10 the projects;

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

13 “(A) the total estimated project cost;

14 “(B) the amount of funding requested; and

15 “(C) the type of modal project;

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

19 “(A) the amount of funding requested;

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

21 “(C) the source of the non-Federal share  
22 of cost of the project; and

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

25 “(h) REPORTING REQUIREMENTS.—

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

5           “(A) the information required under sub-  
6 section (g);

7           “(B) the organizations that were rep-  
8 resented on the selection panel of the State;

9           “(C) the portion of the funds available to  
10 the State for the program that have been obli-  
11 gated; and

12           “(D) the percentage of the funds available  
13 to the State for the program that were used for  
14 administrative expenses.

15           “(2) BIENNIAL REPORT TO CONGRESS.—Not  
16 later than September 30, 2016, and biennially there-  
17 after, the Secretary shall submit a consolidated re-  
18 port on the program, including a review of the State  
19 reports submitted pursuant to paragraph (1), to—

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

22           “(B) the Committee on Commerce,  
23 Science, and Transportation of the Senate;

24           “(C) the Committee on Environment and  
25 Public Works of the Senate; and

1           “(D) the Committee on Transportation  
2           and Infrastructure of the House of Representa-  
3           tives.

4           “(3) AVAILABILITY.—The Secretary shall make  
5           the report submitted under paragraph (2) available  
6           on the public Internet website of the Department of  
7           Transportation.

8           “(i) SPECIAL RULE FOR STATES WITH COMPETITIVE  
9           AND SUBALLOCATED PROGRAMS.—

10           “(1) IN GENERAL.—The Secretary may permit  
11           a State to distribute funding described in subpara-  
12           graph (A), (B), (C), (D), or (E) of subsection (j)(1)  
13           through the mechanisms described in paragraph (2)  
14           if the Secretary certifies that the State is distrib-  
15           uting the funding in a manner that fulfills the pur-  
16           poses of this section.

17           “(2) DISTRIBUTION MECHANISMS.—Distribu-  
18           tion mechanisms that qualify under paragraph (1)  
19           include—

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

23           “(B) direct suballocation to metropolitan  
24           areas of 40 percent of all funds—

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

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

6 “(C) has a competitive State program and  
7 direct suballocation to metropolitan areas or di-  
8 rect recipients of funds under section 5307 of  
9 title 49, of more than 95 percent of the funds—

10 “(i) apportioned to the State under  
11 sections 104(b)(1), 104(b)(2), 104(b)(3),  
12 and 104(b)(4); or

13 “(ii) allocated to the State under sec-  
14 tion 133(d)(1)(B); and

15 “(D) a certification by the Secretary that  
16 the State is distributing grant funding in com-  
17 pliance with the requirements of this section or  
18 in a manner that is substantially similar to  
19 such requirements.

20 “(3) PUBLICATION IN FEDERAL REGISTER.—

21 Before making a certification under paragraph (1),  
22 the Secretary shall—

23 “(A) publish in the Federal Register the  
24 intent of the Secretary to make the certifi-  
25 cation;

1           “(B) provide the public not fewer than 90  
2           days to comment on the proposed certification;  
3           and

4           “(C) take into consideration any comments  
5           received during the comment period.

6           “(4) LETTER TO CONGRESS.—At least 15 days  
7           before making a certification under paragraph (1),  
8           the Secretary shall submit a letter to the congress-  
9           sional committees referred to in subsection (h)(2)  
10          and the members of the congressional delegation of  
11          the State that includes—

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

14           “(B) a justification for the proposed cer-  
15           tification.

16          “(j) FUNDING.—

17           “(1) RESERVATION OF FUNDS.—On October 1  
18           of each of fiscal year, a State shall make the fol-  
19           lowing reservations of funds:

20           “(A) NATIONAL HIGHWAY PERFORMANCE  
21           PROGRAM.—The State shall reserve 10 percent  
22           of the amount apportioned to the State for the  
23           fiscal year under section 104(b)(1)—

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



1                   “(ii) for making grants under this sec-  
2                   tion for eligible projects.

3                   “(B) HIGHWAY SAFETY IMPROVEMENT  
4                   PROGRAM.—The State shall reserve not less  
5                   than 33 percent of the amount apportioned to  
6                   the State for the fiscal year under section  
7                   104(b)(3) for making grants under this section  
8                   for eligible projects that are projects described  
9                   in section 148.

10                  “(C) CONGESTION MITIGATION AND AIR  
11                  QUALITY IMPROVEMENT PROGRAM.—

12                   “(i) IN GENERAL.—The State shall  
13                   reserve not less than 33 percent of the  
14                   amount apportioned to the State for the  
15                   fiscal year under section 104(b)(4), and  
16                   unobligated balances for this section from  
17                   the prior fiscal year for making grants  
18                   under this section for eligible projects that  
19                   are projects described in section 149(b).

20                   “(ii) NONATTAINMENT AREAS.—  
21                   States with nonattainment areas (as de-  
22                   fined in section 171(2) of the Clean Air  
23                   Act (42 U.S.C. 7501(2))) shall use  
24                   amounts reserved under this paragraph for  
25                   making grants under this section for eligi-

1           ble projects described in section 149(b) in  
2           those areas.

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

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

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

22          “(3) NONAWARDED FUNDS.—

23                 “(A) IN GENERAL.—A State shall recom-  
24                 pete the funds using the process under sub-

1 section (d)(2) for funds reserved under this  
2 subsection if—

3 “(i) any funds reserved by the State  
4 for a fiscal year under paragraph (1) have  
5 not been awarded by the State in grants  
6 under this section on or before the last day  
7 of the fiscal year; and

8 “(ii) any funds awarded in grants  
9 under this section remain unobligated by  
10 the grant recipient after the last day of the  
11 3-year period beginning on the date on  
12 which the grant was awarded.

13 “(B) REDIRECTION OF FUNDS.—Once a  
14 State has fulfilled the requirements of subpara-  
15 graph (A), a State may redirect funds reserved  
16 under this subsection for sections 104(b)(1),  
17 104(b)(2), 104(b)(3), and 104(b)(4), and 213  
18 (a)(1) for funds that remain unobligated for an  
19 additional 3 fiscal years.”.

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

“105. Innovation in surface transportation program.”.