

118TH CONGRESS
1ST SESSION

H. R. 832

To amend title 49, United States Code, to direct the Secretary of Transportation to strengthen and advance certain disadvantaged businesses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 6, 2023

Mr. GARCÍA of Illinois (for himself and Mr. JOHNSON of Georgia) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 49, United States Code, to direct the Secretary of Transportation to strengthen and advance certain disadvantaged businesses, 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 “Giving Disadvantaged
5 Businesses Opportunities for Success Act”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Congressional findings on the importance of disadvantaged businesses.
- Sec. 4. Definitions.
- Sec. 5. Severability.
- Sec. 6. Inflation adjustment to Department of Transportation net worth caps.
- Sec. 7. Update to Department of Transportation Disadvantaged Business Enterprise and ACDBE size standards.
- Sec. 8. Definition of assets under Department of Transportation personal net worth test.
- Sec. 9. Additional funding for Department of Transportation Minority Resource Center.
- Sec. 10. Improvements to Department of Transportation Disadvantaged Business Enterprise and ACDBE mentor-protégé programs.
- Sec. 11. Department of Transportation Disadvantaged Business Enterprise and ACDBE certification universal recognition.
- Sec. 12. Incentives for excellence in Disadvantaged Business Enterprise programs and ACDBE programs.
- Sec. 13. Reporting requirements and standards for waivers and exemptions.
- Sec. 14. Advisory committee on disadvantaged business enterprises and ACDBEs.
- Sec. 15. Definition of assets under the Small Business Act.

1 SEC. 3. CONGRESSIONAL FINDINGS ON THE IMPORTANCE
2 OF DISADVANTAGED BUSINESSES.

3 Congress finds the following:

4 (1) While significant progress has occurred due
5 to the establishment of the Disadvantaged Business
6 Enterprise program of the Department of Transpor-
7 tation under section 11101(e) of the Infrastructure
8 Investment and Jobs Act (Public Law 117–58), the
9 ACDBE program of the Department of Transpor-
10 tation under part 23 of title 49, Code of Federal
11 Regulations, and the Section 8(a) Business Develop-
12 ment Program of the Small Business Administration
13 (established under section 8(a) of the Small Busi-
14 ness Act (15 U.S.C. 637)), discrimination and re-
15 lated barriers continue to pose significant obstacles

1 for minority- and women-owned businesses seeking
2 to do business in federally assisted transportation
3 markets across the United States and through pro-
4 curement contracts of Federal agencies.

5 (2) The continuing barriers described in para-
6 graph (1) merit the continuation of the Disadvan-
7 tagged Business Enterprise program, the ACDBE
8 program, and the Section 8(a) Business Develop-
9 ment Program.

10 (3) Congress has received and reviewed testi-
11 mony and documentation of race and gender dis-
12 crimination from numerous sources, including con-
13 gressional hearings and roundtables, scientific re-
14 ports, reports issued by public and private agencies,
15 news stories, reports of discrimination by organiza-
16 tions and individuals, and discrimination lawsuits,
17 which show that race- and gender-neutral efforts
18 alone are insufficient to address the problem.

19 (4) Some examples of the sources described in
20 paragraph (3) include the following:

21 (A) The hearing of the Committee on
22 Transportation and Infrastructure of the House
23 of Representatives held on September 23, 2020,
24 titled “Driving Equity: The U.S. Department of

1 Transportation’s Disadvantaged Business En-
2 terprise Program”.

3 (B) The hearing of the Subcommittee on
4 Contracting and Infrastructure of the Com-
5 mittee on Small Business of the House of Rep-
6 resentatives held on March 2, 2022, titled “The
7 8(a) Program: Overview and Next Steps to Pro-
8 mote Small Business Success”.

9 (C) The 2017 Disparity Study of the Illi-
10 nois Department of Transportation.

11 (D) The 2018 Disparity Study of the City
12 of Denver.

13 (5) The testimony and documentation described
14 in paragraphs (3) and (4) demonstrate that dis-
15 crimination across the United States poses a barrier
16 to full and fair participation of women business own-
17 ers and minority business owners in federally as-
18 sisted transportation markets and through procure-
19 ment contracts of Federal agencies and has im-
20 pacted the development of such businesses.

21 (6) The testimony and documentation described
22 in paragraphs (3) and (4) provide a strong basis
23 that there is a compelling need for the continuation
24 of the Disadvantaged Business Enterprise program,
25 the ACDBE program, and the Section 8(a) Business

1 Development Program to address race and gender
2 discrimination in federally assisted transportation
3 markets and through procurement contracts of Fed-
4 eral agencies.

5 **SEC. 4. DEFINITIONS.**

6 In this Act:

7 (1) ADMINISTRATOR.—The term “Adminis-
8 trator” means the Administrator of the Small Busi-
9 ness Administration.

10 (2) AIRPORT CONCESSION DISADVANTAGED
11 BUSINESS ENTERPRISE.—The terms “Airport Con-
12 cession Disadvantaged Business Enterprise
13 (ACDBE)” and “ACDBE” have the meaning given
14 the term “Airport Concession Disadvantaged Busi-
15 ness Enterprise (ACDBE)” in part 23.3 of title 49,
16 Code of Federal Regulations.

17 (3) CONCERNED OPERATING ADMINISTRA-
18 TION.—The term “concerned operating administra-
19 tion” has the meaning given such term in part 26.5
20 of title 49, Code of Federal Regulations.

21 (4) DISADVANTAGED BUSINESS ENTERPRISE.—
22 The term “Disadvantaged Business Enterprise” has
23 the meaning given such term in part 26.5 of title 49,
24 Code of Federal Regulations.

1 (5) DISADVANTAGED BUSINESS ENTERPRISE
2 ADVISORY COMMITTEE.—The term “Disadvantaged
3 Business Enterprise Advisory Committee” means
4 the committee established in section 109 of this Act.

5 (6) PRIME CONTRACTOR.—The term “prime
6 contractor” has the meaning given such term in sec-
7 tion 8701 of title 41, United States Code.

8 (7) RECIPIENT.—The term “recipient” has the
9 meaning given such term in parts 23.3 and 26.5 of
10 title 49, Code of Federal Regulations.

11 (8) SECRETARY.—The term “Secretary” means
12 the Secretary of Transportation.

13 (9) SMALL BUSINESS DEVELOPMENT CEN-
14 TER.—The term “small business development cen-
15 ter” has the meaning given such term in section 3
16 of the Small Business Act (15 U.S.C. 632).

17 (10) SMALL BUSINESS TRANSPORTATION RE-
18 SOURCE CENTER.—The term “small business trans-
19 portation resource center” means an entity funded
20 by the Office of Small and Disadvantaged Business
21 Utilization of the Department of Transportation
22 that provides an array of technical assistance to
23 build the capacity of small disadvantaged transpor-
24 tation businesses.

1 **SEC. 5. SEVERABILITY.**

2 If any provision of this Act, an amendment made by
3 this Act, or the application of such provision or amend-
4 ment to any person or circumstance is held to be unconsti-
5 tutional, the remainder of this Act and the amendments
6 made by this Act, and the application of such remainder
7 to any person or circumstance shall not be affected.

8 **SEC. 6. INFLATION ADJUSTMENT TO DEPARTMENT OF**
9 **TRANSPORTATION NET WORTH CAPS.**

10 (a) IN GENERAL.—Not later than 1 year after the
11 date of enactment of this Act, the Secretary of Transpor-
12 tation shall issue such regulations as are necessary to in-
13 crease the personal net worth cap contained in parts 23
14 and 26 of title 49, Code of Federal Regulations, to account
15 for any inflation that has occurred since the net worth
16 cap under such parts was increased in the rule submitted
17 by the Department of Transportation issued on January
18 28, 2011, titled “Disadvantaged Business Enterprise:
19 Program Improvements” (76 Fed. Reg. 5083).

20 (b) PARAMETERS.—In carrying out subsection (a),
21 the Secretary shall—

22 (1) use the consumer price index published by
23 the Bureau of Labor Statistics as the inflation met-
24 ric; and

25 (2) account for any inflation that occurred in
26 the time period between the final effective date of

1 the rule submitted by the Department of Transpor-
2 tation issued on January 28, 2011, titled “Dis-
3 advantaged Business Enterprise: Program Improve-
4 ments” (76 Fed. Reg. 5083) and the final effective
5 date of any rule issued pursuant to subsection (a).

6 (c) ADDITIONAL INFLATION ADJUSTMENTS.—The
7 Secretary of Transportation shall issue such regulations
8 as are necessary to update parts 23 and 26 of title 49,
9 United States Code, to establish an interval in accordance
10 with this section to make additional adjustments, after the
11 adjustment under subsection (a), to the net worth caps
12 for determining social and economic disadvantage for in-
13 flation.

14 (d) IN GENERAL.—Not later than 1 year after the
15 date of enactment of this Act, the Administrator shall up-
16 date part 124 of title 13, Code of Federal Regulations,
17 with respect to the maximum net worth of an individual
18 claiming economic disadvantage to be equal to the net
19 worth cap established by the Secretary of Transportation
20 under section 6.

21 (e) ADJUSTMENT.—

22 (1) INTERVAL.—On the first January 1 that is
23 2 years after the date on which the Administrator
24 makes the update described in subsection (d), and
25 annually thereafter, the Administrator shall adjust

1 the maximum net worth described in subsection (d)
2 for inflation using a metric developed by the Admin-
3 istrator.

4 (2) METRIC.—In developing the metric de-
5 scribed in paragraph (1) to account for inflation, the
6 Administrator shall—

7 (A) consider using the Consumer Price
8 Index published by the Bureau of Labor Statis-
9 tics in such metric;

10 (B) solicit and consider the recommenda-
11 tions of the Secretary of Transportation; and

12 (C) solicit and consider public comment on
13 the appropriate metric to use and whether such
14 metric should take into account regional vari-
15 ations in maximum net worth.

16 (3) FINAL RULE ON INFLATION METRIC.—Not
17 later than 1 year after the Administrator solicits
18 public comment pursuant to paragraph (2), the Ad-
19 ministrator shall issue a final rule describing the
20 metric developed under this paragraph.

21 (f) INTERVAL.—The interval for adjusting the net
22 worth caps described in subsection (c) shall be the same
23 annual interval that the Administrator adjusts the net
24 worth caps for the Small Business Administration under
25 subsection (e).

1 (g) FIRST ADDITIONAL ADJUSTMENT.—The first ad-
 2 ditional inflation adjustment under subsection (c) shall
 3 occur at the same time the Administrator carries out the
 4 first adjustment under subsection (e).

5 (h) METRIC.—The Secretary shall use the same infla-
 6 tion metric under subsection (c) that the Administrator
 7 chooses under subsection (e).

8 **SEC. 7. UPDATE TO DEPARTMENT OF TRANSPORTATION**
 9 **DISADVANTAGED BUSINESS ENTERPRISE**
 10 **AND ACDBE SIZE STANDARDS.**

11 (a) HIGHWAYS AND TRANSIT SMALL BUSINESS CON-
 12 CERN DEFINITION.—Section 11101(e)(2)(A) of the Infra-
 13 structure Investment and Jobs Act (Public Law 117–58)
 14 is amended to read as follows:

15 “(A) SMALL BUSINESS CONCERN.—The
 16 term ‘small business concern’ has the meaning
 17 given the term under section 3 of the Small
 18 Business Act (15 U.S.C. 632).”.

19 (b) AVIATION SMALL BUSINESS CONCERN DEFINI-
 20 TION.—Section 47113(a)(1) of title 49, United States
 21 Code, is amended to read as follows:

22 “(1) ‘small business concern’ has the meaning
 23 given the term under section 3 of the Small Busi-
 24 ness Act (15 U.S.C. 632);”.

1 (c) RULEMAKING.—Not later than 1 year after the
2 date of the enactment of this Act, the Secretary shall issue
3 or amend such rules as are necessary to carry out the
4 amendment made by this section.

5 **SEC. 8. DEFINITION OF ASSETS UNDER DEPARTMENT OF**
6 **TRANSPORTATION PERSONAL NET WORTH**
7 **TEST.**

8 Not later than 1 year after the date of enactment
9 of this Act, the Secretary of Transportation shall issue
10 such regulations as are necessary to update the assets ex-
11 cluded in the personal net worth test contained in parts
12 23.3 and 26.67 of title 49, Code of Federal Regulations,
13 to match the assets excluded in the computation of net
14 worth under section 8(a)(6)(E) of the Small Business Act
15 (15 U.S.C. 637(a)(6)(E)), as amended by section 15.

16 **SEC. 9. ADDITIONAL FUNDING FOR DEPARTMENT OF**
17 **TRANSPORTATION MINORITY RESOURCE**
18 **CENTER.**

19 (a) IMPROVEMENTS TO MINORITY RESOURCE CEN-
20 TER.—Section 332 of title 49, United States Code, is
21 amended—

22 (1) in subsection (b)—

23 (A) in paragraph (6) by striking “and” at
24 the end;

1 (B) by redesignating paragraph (7) as
2 paragraph (8); and

3 (C) by inserting after paragraph (6) the
4 following:

5 “(7) establish a goal of having a small business
6 transportation resource center in every State; and”;
7 and

8 (2) in subsection (e)(2) by striking “such sums
9 as may be necessary for each of fiscal years 2005
10 through 2009” and inserting “\$25,000,000 for each
11 of fiscal years 2024 through 2028”.

12 (b) USE OF FUNDING.—The Secretary shall use any
13 additional funding appropriated under section 332 of title
14 49, United States Code, to—

15 (1) establish additional small business transpor-
16 tation resource centers with the goal of having 1 in
17 each State; and

18 (2) provide additional funding to existing small
19 business transportation resource centers to augment
20 the activities of the center so the center can reach
21 more disadvantaged businesses.

1 **SEC. 10. IMPROVEMENTS TO DEPARTMENT OF TRANSPOR-**
2 **TATION DISADVANTAGED BUSINESS ENTER-**
3 **PRISE AND ACDBE MENTOR-PROTÉGÉ PRO-**
4 **GRAMS.**

5 (a) IN GENERAL.—Not later than 1 year after the
6 date of enactment of this Act, the Secretary shall issue
7 such regulations as are necessary to update parts 23 and
8 26.35 of title 49, Code of Federal Regulations (or a suc-
9 cessor regulation) to require covered large recipients with
10 Disadvantaged Business Enterprise programs or ACDBE
11 programs to have a mentor-protégé program.

12 (b) QUALITY CONTROL STANDARDS.—Not later than
13 2 years after the date of enactment of this Act, the Sec-
14 retary shall issue or update regulations regarding min-
15 imum quality standards or certain items that shall be in-
16 cluded in mentor-protégé programs in order for such pro-
17 grams to qualify under subsection (a), including—

18 (1) ensuring that any mentor-protégé program
19 results in an increase to or success of a protégé with
20 respect to—

21 (A) capital base, including—

22 (i) working capital;

23 (ii) depreciated value of equipment
24 owned or leased;

25 (iii) payroll;

26 (iv) overhead;

1 (v) material expensed;

2 (vi) overhead expensed;

3 (vii) net profit; and

4 (viii) available credit;

5 (B) bonding limits, by job and in the ag-
6 gregate;

7 (C) value of current and future work;

8 (D) success in getting profitable work out-
9 side any government or other procurement pro-
10 gram for small, minority, women, or Disadvan-
11 taged Business Enterprises;

12 (E) retention of reliable and productive
13 employees;

14 (F) customer loyalty resulting in repeat
15 business; and

16 (G) any other area determined by the Sec-
17 retary; and

18 (2) ensuring that any mentorship-protégé pro-
19 gram demonstrates overall success in—

20 (A) higher than average survival rate for
21 protégés;

22 (B) continuous improvement in the finan-
23 cial strength and bonding capacity of protégés;

1 (C) consistent success in meeting the ob-
2 jectives included in each protégé's individual
3 business plan;

4 (D) a high rate of successful transition out
5 of the program; and

6 (E) any other area determined by the Sec-
7 retary.

8 (c) AUDITING.—

9 (1) IN GENERAL.—The Secretary shall periodi-
10 cally audit the mentor-protégé programs of recipi-
11 ents to ensure such programs are meeting the qual-
12 ity control standards set under subsection (b).

13 (2) USE OF INFORMATION.—The findings of
14 the audits under paragraph (1) shall inform any up-
15 dates to the quality control standards that the Sec-
16 retary issues under this section.

17 (d) COMPLIANCE.—In carrying out this section, the
18 Secretary shall issue such regulations as are necessary to
19 update parts 23 and 26 of title 49, Code of Federal Regu-
20 lations, to make clear that a Disadvantaged Business En-
21 terprise program or ACDBE program of a covered large
22 recipient is not in compliance with this section unless such
23 recipient's Disadvantaged Business Enterprise program or
24 ACDBE program has the required mentor-protégé pro-
25 gram and such program complies with all requirements

1 or regulations established by the concerned operating ad-
2 ministration or Secretary, including any quality control
3 standards established under subsection (b).

4 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
5 authorized to carry out this section \$10,000,000 for each
6 of fiscal years 2024 through 2028, of which—

7 (1) \$3,000,000 for each fiscal year shall be for
8 the Secretary to carry out the quality control, audit-
9 ing, and compliance activities required under this
10 section; and

11 (2) \$7,000,000 for each fiscal year shall be for
12 the Secretary to assist recipients with setting up,
13 improving, and carrying out mentor-protégé pro-
14 grams.

15 (f) COVERED LARGE RECIPIENTS DEFINED.—In this
16 section, the term “covered large recipients” means—

17 (1) a State department of Transportation;

18 (2) large public transportation and regional
19 transportation agencies, as defined by the Secretary;

20 (3) any recipient of airport funds authorized
21 under section 47101 of title 49, United States Code,
22 that operates a large hub airport (as such term is
23 defined in section 47102 of title 49, United States
24 Code); and

1 (4) recipients that are similar in size and pur-
 2 pose to recipients described in paragraphs (1)
 3 through (3), as determined by the Secretary.

4 **SEC. 11. DEPARTMENT OF TRANSPORTATION DISADVAN-**
 5 **TAGED BUSINESS ENTERPRISE AND ACDBE**
 6 **CERTIFICATION UNIVERSAL RECOGNITION.**

7 (a) UNIVERSAL CERTIFICATION RECOGNITION.—Not
 8 later than 2 years after the date of the enactment of this
 9 Act, the Secretary shall issue such regulations as are nec-
 10 essary to update parts 23 and 26 of title 49, Code of Fed-
 11 eral Regulations, (or a successor regulation) to require
 12 States and recipients to recognize a certification issued by
 13 another State to a business recognizing such business as
 14 a Disadvantaged Business Enterprise or an ACDBE with-
 15 out further procedures.

16 (b) CERTIFICATION CRITERIA.—In certifying a busi-
 17 ness as a Disadvantaged Business Enterprise or an
 18 ACDBE, a State shall meet any requirements that the
 19 Secretary establishes under section 11101(e)(5) of the In-
 20 frastructure Investment and Jobs Act (Public Law 117–
 21 58).

22 (c) SECRETARY AUTHORITY.—The Secretary shall
 23 have the authority to regulate certain items or issue stand-
 24 ards that any recipient’s Disadvantaged Business Enter-
 25 prise program or ACDBE program shall meet as part of

1 universal certification recognition under this section, in-
2 cluding—

3 (1) the transportation contracts that a Dis-
4 advantaged Business Enterprise or ACDBE shall
5 have access to bid on once such business obtains
6 Disadvantaged Business Enterprise or ACDBE cer-
7 tification;

8 (2) any differences in the way a State or recipi-
9 ent treats a home State Disadvantaged Business
10 Enterprise or ACDBE versus an out-of-State Dis-
11 advantaged Business Enterprise or ACDBE;

12 (3) access to a State or recipient's resources
13 and information that an out-of-State Disadvantaged
14 Business Enterprise or ACDBE has access to once
15 such business obtains a Disadvantaged Business En-
16 terprise or ACDBE certification; and

17 (4) any other area the Secretary determines
18 necessary to ensure the success of universal certifi-
19 cation recognition.

20 (d) AUDITING.—

21 (1) IN GENERAL.—The Secretary shall periodi-
22 cally audit States and recipients to ensure that such
23 States are recognizing a certification issued by an-
24 other State to a business recognizing such business

1 as a Disadvantaged Business Enterprise or ACDBE
2 without further procedures.

3 (2) USE OF INFORMATION.—The findings of
4 the audits under paragraph (1) shall inform any up-
5 dates to the regulations that the Secretary issues
6 under this section.

7 (e) COMPLIANCE.—In carrying out this section, the
8 Secretary shall issue such regulations as are necessary to
9 update parts 23 and 26 of title 49, Code of Federal Regu-
10 lations, to make clear that a Disadvantaged Business En-
11 terprise program or ACDBE program of a recipient is not
12 in compliance with this section unless such recipient's Dis-
13 advantaged Business Enterprise program or ACDBE pro-
14 gram recognizes a certification issued by another State to
15 a business recognizing such business as a Disadvantaged
16 Business Enterprise or ACDBE without further proce-
17 dures and meets any standards established by the Sec-
18 retary under subsection (c).

19 **SEC. 12. INCENTIVES FOR EXCELLENCE IN DISADVAN-**
20 **TAGED BUSINESS ENTERPRISE PROGRAMS**
21 **AND ACDBE PROGRAMS.**

22 (a) ESTABLISHMENT OF EXCELLENCE AWARDS.—
23 Not later than 1 year after the date of enactment of this
24 Act, the Secretary shall establish an awards program that

1 recognizes recipients that have excellent Disadvantaged
2 Business Enterprise programs or ACDBE programs.

3 (b) ANNUAL AWARDS.—The Secretary shall on an
4 annual basis review recipients' Disadvantaged Business
5 Enterprise programs or ACDBE programs and recognize
6 certain recipients that have excellent Disadvantaged Busi-
7 ness Enterprise programs or ACDBE programs through
8 the awards program under subsection (a).

9 (c) CRITERIA FOR AWARDS.—In carrying out the
10 awards program established under subsection (a), the Sec-
11 retary shall consider the following criteria:

12 (1) How high the Disadvantaged Business En-
13 terprise or ACDBE participation goal of the Dis-
14 advantaged Business Enterprise program or
15 ACDBE program is.

16 (2) The success of the recipient in meeting and
17 exceeding participation goals described in paragraph
18 (1).

19 (3) How much successful growth a Disadvan-
20 tagged Business Enterprise or ACDBE in the pro-
21 gram has.

22 (4) To what extent and how well a Disadvan-
23 tagged Business Enterprise program or ACDBE pro-
24 gram welcomes new Disadvantaged Business Enter-
25 prises or ACDBEs.

1 (5) How well a Disadvantaged Business Enter-
2 prise program or ACDBE program assists all so-
3 cially and economically disadvantaged individuals in
4 overcoming barriers to participation.

5 (6) The existence of and the quality of a men-
6 tor-protégé program.

7 (7) Any other criteria the Secretary determines
8 is integral to an excellent Disadvantaged Business
9 Enterprise program or ACDBE program.

10 (d) ADJUSTING CRITERIA.—The Secretary may ad-
11 just the criteria under subsection (c) to account for a re-
12 cipient’s size, type of business, geographic location, or any
13 other characteristic the Secretary determines necessary.

14 (e) DISCRETIONARY GRANT PREFERENCE.—The
15 Secretary shall provide preferences for discretionary grant
16 funding awards to recipients that are recognized under
17 subsections (a) and (b).

18 (f) NOTICE OF FUNDING OPPORTUNITIES.—Notwith-
19 standing any other provision of law or regulation, the Sec-
20 retary shall ensure that any notice of funding opportunity
21 or availability for discretionary grant funding issued by
22 the Secretary contains the preferences under subsection
23 (e).

1 (g) TIMING OF REQUIREMENT.—Subsection (f) shall
2 apply to any notice of funding opportunity or availability
3 issued after the date of enactment of this Act.

4 (h) ADDITIONAL INCENTIVES.—In addition to the
5 grant preferences under subsection (e), the Secretary may
6 provide additional incentives to recipients that are recog-
7 nized under subsections (a) and (b).

8 (i) REPORTING.—The Secretary shall—

9 (1) make available on the Department of
10 Transportation’s website a list of recipients being
11 recognized for excellent Disadvantaged Business En-
12 terprise or ACDBE programs under subsections (a)
13 and (b);

14 (2) include a rationale for why the Secretary is
15 recognizing the recipients described in paragraph
16 (1);

17 (3) provide information regarding the recipi-
18 ents’ Disadvantaged Business Enterprise or ACDBE
19 programs, including a link to the recipients’ program
20 website; and

21 (4) annually update the information required
22 under this subsection.

23 (j) AUTHORIZATION OF APPROPRIATIONS.—There is
24 authorized to carry out this section \$2,000,000 for each
25 of fiscal years 2024 through 2028.

1 **SEC. 13. REPORTING REQUIREMENTS AND STANDARDS**
2 **FOR WAIVERS AND EXEMPTIONS.**

3 (a) REPORTING REQUIREMENTS.—Not later than 1
4 year after the date of enactment of this Act, the Secretary
5 shall update parts 23 and 26 of title 49, Code of Federal
6 Regulations, to require each concerned operating adminis-
7 tration or model agency to annually report to the Sec-
8 retary any waiver or exemption such administration or
9 agency grants to a recipient from any requirement under
10 parts 23 and 26 of title 49, Code of Federal Regulations.

11 (b) CONTENTS OF REPORTS.—The reports under
12 subsection (a) shall contain the following information:

13 (1) The name of the recipient granted the waiv-
14 er or exemption.

15 (2) The name of the concerned operating ad-
16 ministration or model agency that granted the waiv-
17 er or exemption.

18 (3) Any provision that the recipient received a
19 waiver or exemption from.

20 (4) The reason the concerned operating admin-
21 istration or model agency granted the waiver.

22 (5) A description of the conditions in the recipi-
23 ent's jurisdiction that made the situation appro-
24 priate to grant the recipient's program proposal.

25 (6) The duration of the waiver.

1 (7) The public participation a recipient con-
2 ducted in developing such recipient's request, includ-
3 ing any consultations with the Disadvantaged Busi-
4 ness Enterprise and ACDBE communities.

5 (8) Any other information the Secretary deter-
6 mines necessary.

7 (c) POSTING ON WEBSITE.—Not later than 90 days
8 after the date on which a report is required to be filed
9 under subsection (a), the Secretary shall in a full-text
10 searchable, sortable, and downloadable format for access
11 by the public—

12 (1) make the reports submitted to the Secretary
13 under subsection (a) available on the website of the
14 Department of Transportation;

15 (2) report the total number of waivers or ex-
16 emptions that a concerned operating administration
17 or model agency granted that year; and

18 (3) report the total number of waivers or ex-
19 emptions that a recipient applied for or was granted
20 that year.

21 (d) STANDARDS FOR GRANTING WAIVERS.—Not
22 later than 2 years after the date of enactment of this Act,
23 and every 5 years thereafter, the Secretary shall issue
24 such regulations as may be necessary to update regula-
25 tions regarding the standards for granting waivers or ex-

1 emptions to a recipient from any requirement under parts
2 23 and 26 of title 49, Code of Federal Regulations, in
3 order to minimize the improper granting of such waivers
4 or exemptions.

5 (e) CONSIDERATIONS.—In carrying out subsection
6 (d), the Secretary shall consider—

7 (1) creating a uniform list of reasons for grant-
8 ing waivers or exemptions;

9 (2) creating a uniform list of conditions in ju-
10 risdictions that are appropriate for granting waivers
11 or exemptions;

12 (3) limiting the number of waivers or exemp-
13 tions a recipient can receive;

14 (4) requiring a recipient to conduct more public
15 hearings and consultations with the Disadvantaged
16 Business Enterprise and ACDBE communities be-
17 fore a proposal for a waiver or exemption can be
18 granted; and

19 (5) increasing the level of standard for which a
20 recipient's proposal must meet before a concerned
21 operating administration or model agency will grant
22 a waiver or exemption to a recipient.

23 (f) AUDITING.—

24 (1) IN GENERAL.—The Secretary shall periodi-
25 cally audit concerned operating administrations or

1 model agencies to ensure that such administrations
2 or agencies are minimizing the improper granting of
3 waivers or exemptions to a recipient from any re-
4 quirement under parts 23 and 26 of title 49, Code
5 of Federal Regulations.

6 (2) USE OF INFORMATION.—The findings of
7 the audits under paragraph (1) shall inform any up-
8 dates to the regulations that the Secretary issues or
9 updates under subsection (d).

10 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
11 authorized to carry out this section \$3,000,000 for each
12 of fiscal years 2024 through 2028.

13 **SEC. 14. ADVISORY COMMITTEE ON DISADVANTAGED BUSI-**
14 **NESS ENTERPRISES AND ACDBES.**

15 (a) DISADVANTAGED BUSINESS ENTERPRISE AND
16 ACDBE ADVISORY COMMITTEE.—

17 (1) ESTABLISHMENT.—Not later than 180 days
18 after the date of the enactment of this Act, the Sec-
19 retary shall establish a Disadvantaged Business En-
20 terprise and ACDBE Advisory Committee (in this
21 section referred to as the “Committee”).

22 (2) DUTIES.—The duties of the Committee
23 shall be to provide a forum for stakeholders to dis-
24 cuss and make policy recommendations to Congress
25 with respect to advancing the success of Disadvan-

1 tagged Business Enterprises and ACDBEs in the
2 transportation, infrastructure, construction, and
3 building industries.

4 (3) MEMBERSHIP.—

5 (A) VOTING MEMBERS.—The Committee
6 shall be composed of the following voting mem-
7 bers:

8 (i) The Secretary or the Secretary's
9 designee.

10 (ii) The Administrator or the Admin-
11 istrator's designee.

12 (iii) A representative of State govern-
13 ments.

14 (iv) A representative of local govern-
15 ments.

16 (v) A representative of county govern-
17 ments.

18 (vi) A representative of State Depart-
19 ments of Transportation.

20 (vii) A representative of transit agen-
21 cies.

22 (viii) A representative of airports.

23 (ix) A representative from the Con-
24 ference of Minority Transportation Offi-
25 cials.

1 (x) Two individuals who have experi-
2 ence advocating for Disadvantaged Busi-
3 ness Enterprises or ACDBEs.

4 (xi) Two or more representatives from
5 Disadvantaged Business Enterprises or
6 ACDBEs owned by persons of color.

7 (xii) Two or more representatives
8 from Disadvantaged Business Enterprises
9 or ACDBEs owned by women.

10 (B) APPOINTING AUTHORITY.—The Sec-
11 retary shall appoint all members of the Com-
12 mittee, except for the Administrator, who shall
13 have a self-executing appointment.

14 (C) APPOINTMENT REPLACEMENT.—The
15 Secretary shall promptly appoint a replacement
16 for any member whose term has expired or who
17 has resigned from the Committee.

18 (D) TERM LENGTH.—

19 (i) IN GENERAL.—Each member, ex-
20 cept for the Secretary or the Adminis-
21 trator, shall serve for an initial term of 4
22 years on the Committee.

23 (ii) REAPPOINTMENT.—A member
24 whose term has expired may be re-

1 appointed to the Committee for subsequent
2 terms.

3 (E) SERVICE CONTINUATION.—A member
4 whose term has expired may continue to serve
5 until the Secretary has appointed a replacement
6 member.

7 (F) NON-VOTING MEMBERS.—The Sec-
8 retary may allow additional interested stake-
9 holders to attend and participate in the activi-
10 ties of the Committee as non-voting members.

11 (4) MEETINGS.—The Committee shall meet not
12 less frequently than—

13 (A) 4 times per year until the report under
14 paragraph (5) is submitted; and

15 (B) 2 times per year after such report is
16 submitted.

17 (5) REPORT.—

18 (A) IN GENERAL.—Not later than 2 years
19 after the establishment of the Committee, the
20 Committee shall submit to the Committee on
21 Commerce, Science, and Transportation of the
22 Senate, the Committee on Environment and
23 Public Works of the Senate, the Committee on
24 Banking, Housing, and Urban Affairs of the
25 Senate, the Committee on Small Business and

1 Entrepreneurship of the Senate, the Committee
2 on Transportation and Infrastructure of the
3 House of Representatives, and the Committee
4 on Small Business of the House of Representa-
5 tives a report that contains recommendations,
6 supported by at least a majority of all voting
7 members. Such report shall include rec-
8 ommendations regarding—

9 (i) policy or regulatory changes to
10 help increase the success of Disadvantaged
11 Business Enterprises or ACDBEs in the
12 transportation construction and building
13 industries;

14 (ii) policy or regulatory changes to
15 help increase the number of prime contrac-
16 tors that are Disadvantaged Business En-
17 terprises or ACDBEs;

18 (iii) policy or regulatory changes to
19 address the penalization that occurs when
20 businesses owned by women or persons of
21 color become too large to qualify as Dis-
22 advantaged Business Enterprises or
23 ACDBEs;

24 (iv) policy or regulatory changes to
25 address the structural and legacy barriers

1 faced by women and persons of color in at-
2 tempting to enter or succeed in the trans-
3 portation, construction, and building indus-
4 tries;

5 (v) policy or regulatory changes to in-
6 crease the access of Disadvantaged Busi-
7 ness Enterprises or ACDBEs to financial
8 capital and other necessary ancillary serv-
9 ices to succeed; and

10 (vi) ways to make existing Federal
11 technical assistance programs such as
12 small business transportation resource cen-
13 ters, small business development centers,
14 minority business development centers, and
15 procurement technical assistance centers
16 work better and reach more Disadvantaged
17 Business Enterprises and ACDBEs.

18 (B) DISSENTING VIEWS.—The report in
19 subparagraph (A) shall include a section allow-
20 ing any dissenting views and the dissent's ra-
21 tionale from the majority's recommendations.

22 (6) ADDITIONAL REPORTS.—After the submis-
23 sion of the report under paragraph (5), the Com-
24 mittee shall, from time to time at an appropriate
25 time determined by the Committee, submit to the

1 Secretary and Congress subsequent reports that are
2 consistent with the duties of the Committee de-
3 scribed in paragraph (2).

4 (7) COMPENSATION.—Members of the Com-
5 mittee shall serve without compensation, but may be
6 allowed travel expenses, including per diem in lieu of
7 subsistence, in accordance with subchapter I of
8 chapter 7 of title 5, United States Code.

9 (8) SUPPORT.—The Secretary shall use the re-
10 sources of the Department of Transportation and
11 the Office of the Secretary to provide support to the
12 Committee.

13 (b) TERMINATION.—The Committee shall terminate
14 on the date that is 5 years after the date on which the
15 Committee is established under subsection (a).

16 (c) REGULATIONS.—The Secretary shall have the au-
17 thority to issue or modify any regulations necessary to
18 carry out subsection (a).

19 (d) CONFORMING AMENDMENT.—Sections 100501,
20 100502, and 100503 of the Infrastructure Investment and
21 Jobs Act (Public Law 117–58) are repealed.

1 **SEC. 15. DEFINITION OF ASSETS UNDER THE SMALL BUSI-**
2 **NESS ACT.**

3 (a) DEFINITION OF ASSETS.—Section 8(a)(6)(E) of
4 the Small Business Act (15 U.S.C. 637(a)(6)(E)) is
5 amended—

6 (1) in clause (ii), by striking the period at the
7 end and inserting a semicolon; and

8 (2) by adding the following new clauses:

9 “(iii) retirement savings accounts of
10 disadvantaged owners;

11 “(iv) investments in real estate other
12 than primary personal residences of dis-
13 advantaged owners; and

14 “(v) equity in businesses that are not
15 certified under this subsection of disadvan-
16 tagged owners.”.

17 (b) RULEMAKING.—Not later than 1 year after the
18 date of the enactment of this Act, the Administrator shall
19 issue or amend such rules as are necessary to carry out
20 the amendments made by subsection (a).

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