H.R. ______

To amend title 49, United States Code, and the Small Business Act to direct the Department of Transportation and the Small Business Administration to strengthen and advance certain disadvantaged businesses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. García of Illinois introduced the following bill; which was referred to the Committee on ______________________

A BILL

To amend title 49, United States Code, and the Small Business Act to direct the Department of Transportation and the Small Business Administration to strengthen and advance certain disadvantaged businesses, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Giving Disadvantaged Businesses Opportunities for Success Act”.

May 11, 2022 (11:41 a.m.)
SEC. 2. TABLE OF CONTENTS.

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.

TITLE I—DEPARTMENT OF TRANSPORTATION

Sec. 101. Inflation adjustment to Department of Transportation net worth caps.
Sec. 102. Update to Department of Transportation Disadvantaged Business Enterprise and ACDBE size standards.
Sec. 103. Department of Transportation annual gross receipts timeline.
Sec. 104. Definition of assets under Department of Transportation personal net worth test.
Sec. 105. Additional funding for Department of Transportation minority resource center.
Sec. 106. Improvements to Department of Transportation Disadvantaged Business Enterprise and ACDBE mentor-protégé programs.
Sec. 107. Department of Transportation Disadvantaged Business Enterprise and ACDBE certification universal recognition.
Sec. 108. Incentives for excellence in Disadvantaged Business Enterprise programs and ACDBE programs.
Sec. 109. Reporting requirements and standards for waivers and exemptions.
Sec. 110. Advisory committee on disadvantaged business enterprises and ACDBEs.

TITLE II—SMALL BUSINESS ADMINISTRATION

Sec. 201. Update to small business concern disadvantaged business net worth caps.
Sec. 203. Annual gross receipts timeline under the Small Business Act.
Sec. 204. Definition of assets under the Small Business Act.
Sec. 205. Small business development center partnerships with the Department of Transportation.
Sec. 206. Small business development center partnerships with nonprofits.

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

Congress finds the following:

(1) While significant progress has occurred due to the establishment of the Disadvantaged Business Enterprise program of the Department of Transportation under section 11101(e) of the Infrastructure...
Investment and Jobs Act (Public Law 117–58), the ACDBE program of the Department of Transportation under part 23 of title 49, Code of Federal Regulations, and the Section 8(a) Business Development Program of the Small Business Administration (established under section 8(a) of the Small Business Act (15 U.S.C. 637), discrimination and related barriers continue to pose significant obstacles for minority- and women-owned businesses seeking to do business in federally-assisted transportation markets across the United States and through procurement contracts of Federal agencies.

(2) The continuing barriers described in paragraph (1) merit the continuation of the Disadvantaged Business Enterprise program, the ACDBE program, and the Section 8(a) Business Development Program.

(3) Congress has received and reviewed testimony and documentation of race and gender discrimination from numerous sources, including congressional hearings and roundtables, scientific reports, reports issued by public and private agencies, news stories, reports of discrimination by organizations and individuals, and discrimination lawsuits,
which show that race- and gender-neutral efforts alone are insufficient to address the problem.

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

(A) The hearing of the Committee on Transportation and Infrastructure of the House of Representatives held on September 23, 2020, titled “Driving Equity: The U.S. Department of Transportation’s Disadvantaged Business Enterprise Program”.

(B) The hearing of the Subcommittee on Contracting and Infrastructure of the Committee on Small Business of the House of Representatives held on March 2, 2022, titled “The 8(a) Program: Overview and Next Steps to Promote Small Business Success”.

(C) The 2017 Disparity Study of the Illinois Department of Transportation.

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

(5) The testimony and documentation described in paragraphs (3) and (4) demonstrate that discrimination across the United States poses a barrier to full and fair participation of women business owners and minority business owners in federally-as-
sisted transportation markets and through procurement contracts of Federal agencies and has impacted the development of such businesses.

(6) The testimony and documentation described in paragraphs (3) and (4) provide a strong basis that there is a compelling need for the continuation of Disadvantaged Business Enterprise program, the ACDBE program, and the Section 8(a) Business Development Program to address race and gender discrimination in federally-assisted transportation markets and through procurement contracts of Federal agencies.

SEC. 4. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Small Business Administration.

(2) AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE.—The terms “Airport Concession Disadvantaged Business Enterprise (ACDBE)” and “ACDBE” have the meaning given the term “Airport Concession Disadvantaged Business Enterprise (ACDBE)” in part 23.3 of title 49, Code of Federal Regulations.
(3) Concerned operating administration.—The term “concerned operating administration” has the meaning given such term in part 26.5 of title 49, Code of Federal Regulations.

(4) Disadvantaged business enterprise.—The term “Disadvantaged Business Enterprise” has the meaning given such term in part 26.5 of title 49, Code of Federal Regulations.

(5) Disadvantaged business enterprise advisory committee.—The term “Disadvantaged Business Enterprise Advisory Committee” means the committee established in section 110 of this Act.

(6) Prime contractor.—The term “prime contractor” has the meaning given such term in section 8701(5) of title 41, United States Code.

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

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

(9) Small business development center.—The term “small business development center” has the meaning given such term in section 3 of the Small Business Act (15 U.S.C. 632).
(10) Small business transportation resource center.—The term “small business transportation resource center” means an entity funded by the Office of Small and Disadvantaged Business Utilization of the Department of Transportation that provides an array of technical assistance to build the capacity of small disadvantaged transportation businesses.

SEC. 5. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act and the amendments made by this Act, and the application of such remainder to any person or circumstance shall not be affected.

TITLE I—DEPARTMENT OF TRANSPORTATION

SEC. 101. INFLATION ADJUSTMENT TO DEPARTMENT OF TRANSPORTATION NET WORTH CAPS.

(a) In General.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue such regulations as are necessary to increase the personal net worth cap contained in parts 23 and 26 of title 49, Code of Federal Regulations, to account for any inflation that has occurred since the net worth
The cap under such parts was increased in the rule submitted by the Department of Transportation issued on January 28, 2011, titled “Disadvantaged Business Enterprise: Program Improvements” (76 Fed. Reg. 5083).

(b) Parameters.—In carrying out subsection (a), the Secretary shall—

(1) use the consumer price index published by the Bureau of Labor Statistics as the inflation metric; and

(2) account for any inflation that occurred in the time period between the final effective date of the rule submitted by the Department of Transportation issued on January 28, 2011, titled “Disadvantaged Business Enterprise: Program Improvements” (76 Fed. Reg. 5083) and the final effective date of any rule issued pursuant to subsection (a).

(c) Additional Inflation Adjustments.—The Secretary of Transportation shall issue such regulations as are necessary to update parts 23 and 26 of title 49, United States Code, to establish an interval in accordance with this section to make additional adjustments, after the adjustment under subsection (a), to the net worth caps for determining social and economic disadvantage for inflation.
(d) INTERVAL.—The interval for adjusting the net worth caps described in subsection (e) shall be the same annual interval that the Administrator adjusts the net worth caps for the Small Business Administration under section 201(b).

(e) FIRST ADDITIONAL ADJUSTMENT.—The first additional inflation adjustment under subsection (c) shall occur at the same time the Administrator carries out the first adjustment under section 201(b)(1).

(f) METRIC.—The Secretary shall use the same inflation metric under subsection (c) that the Administrator chooses under section 201(b).

SEC. 102. UPDATE TO DEPARTMENT OF TRANSPORTATION DISADVANTAGED BUSINESS ENTERPRISE AND ACDBE SIZE STANDARDS.

(a) HIGHWAYS AND TRANSIT SMALL BUSINESS CONCERN DEFINITION.—Section 11101(e)(2)(A) of the Infrastructure Investment and Jobs Act (Public Law 117–58) is amended to read as follows:

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

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(b) AVIATION SMALL BUSINESS CONCERN DEFINITION.—Section 47113(a)(1) of title 49, United States Code, is amended to read as follows:

“(1) ‘small business concern’ has the meaning given the term in section 3 of the Small Business Act (15 U.S.C. 632);’.

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

SEC. 103. DEPARTMENT OF TRANSPORTATION ANNUAL GROSS RECEIPTS TIMELINE.

(a) FHWA AND FTA GROSS RECEIPTS TIMELINE.—Section 11101(e)(2)(A)(ii) of the Infrastructure Investment and Jobs Act (Public Law 117–58) is amended by striking “during the proceeding 3 fiscal years” and inserting “during the proceeding 7 fiscal years”.

(b) FAA GROSS RECEIPTS TIMELINE.—The Secretary of Transportation shall issue such regulations as are necessary to update the gross receipts timeline contained in part 23.33 of title 49, Code of Federal Regulations, from 3 years to 7 years for the purposes of a firm being certified as an ACDBE.

(c) EFFECTIVE DATE.—The amendment in subsection (a) shall be treated as if such amended was in-
included on the date of enactment of the Infrastructure Investment and Jobs Act (Public Law 117–58).

(d) RULEMAKING.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue such regulations as are necessary to carry out the amendment made by this section.

SEC. 104. DEFINITION OF ASSETS UNDER DEPARTMENT OF TRANSPORTATION PERSONAL NET WORTH TEST.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue such regulations as are necessary to update the assets excluded in the personal net worth test contained in parts 23.3 and 26.67 of title 49, Code of Federal Regulations, to match the assets excluded in the computation of net worth under Section 8(a)(6)(E) of the Small Business Act (15 U.S.C. 637(a)(6)(E)), as amended by section 204 of this Act.

SEC. 105. ADDITIONAL FUNDING FOR DEPARTMENT OF TRANSPORTATION MINORITY RESOURCE CENTER.

(a) IMPROVEMENTS TO MINORITY RESOURCE CENTER.—Section 332 of title 49, United States Code, is amended—

(1) in subsection (b)—
(A) in paragraph (6) by striking “and” at the end;
(B) by redesignating paragraph (7) as paragraph (8); and
(C) by inserting after paragraph (6) the following:
“(7) establish a goal of having a small business transportation resource center in every State; and”;
and
(2) in subsection (e)(2) by striking “such sums as may be necessary for fiscal years 2005 through 2009” and inserting “$25,000,000 for each of fiscal years 2023 through 2027”.

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

(1) establish additional small business transportation resource centers with the goal of having 1 in each State; and

(2) provide additional funding to existing small business transportation resource centers to augment the activities of the center so the center can reach more disadvantaged businesses.
SEC. 106. IMPROVEMENTS TO DEPARTMENT OF TRANSPORTATION DISADVANTAGED BUSINESS ENTERPRISE AND ACDBE MENTOR-PROTÉGÉ PROGRAMS.

(a) In General.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue such regulations as are necessary to update parts 23 and 26.35 of title 49, Code of Federal Regulations, (or a successor regulation) to require covered large recipients with Disadvantaged Business Enterprise programs or ACDBE programs to have a mentor-protégé program.

(b) Quality Control Standards.—Not later than 2 years after the date of enactment of this Act, the Secretary shall issue or update regulations regarding minimum quality standards or certain items that shall be included in mentor-protégé programs in order for such programs to qualify under subsection (a), including—

(1) ensuring that any mentor-protégé program results in the increase or success of a protégé in—

(A) capital base, including—

(i) working capital;

(ii) depreciated value of equipment owned or leased;

(iii) payroll;

(iv) overhead;

(v) material expensed;
(vi) overhead expensed;
(vii) net profit; and
(viii) available credit;
(B) bonding limits, by job and in the aggregate;
(C) value of current and future work;
(D) success in getting profitable work outside any government or other procurement program for small, minority, women, or disadvantaged business enterprises;
(E) retention of reliable and productive employees;
(F) customer loyalty resulting in repeat business; and
(G) any other area determined by the Secretary; and
(2) ensuring that any mentorship-protégé program demonstrates overall success in—
(A) higher than average survival rate for protégés;
(B) continuous improvement in the financial strength and bonding capacity of protégés;
(C) consistent success in meeting the objectives included in each protégé’s individual business plan;
(D) a high rate of successful transition out of the program; and

(E) any other area determined by the Secretary.

(c) AUDITING.—

(1) IN GENERAL.—The Secretary shall periodically audit the mentor-protégé programs of recipients to ensure such programs are meeting the quality control standards set under subsection (e).

(2) USE OF INFORMATION.—The findings of the audits under paragraph (1) shall inform any updates to the quality control standards that the Secretary issues under this section.

(d) COMPLIANCE.—In carrying out this section, the Secretary shall issue such regulations as are necessary to update parts 23 and 26 of title 49, Code of Federal Regulations, to make clear that a Disadvantaged Business Enterprise program or ACDBE program of a covered large recipient is not in compliance with this section unless such recipient’s Disadvantaged Business Enterprise program or ACDBE program has the required mentor-protégé program and such program complies with all requirements or regulations established by the concerned operating administration or Secretary, including any quality control standards established under subsection (e).
(c) Authorization of Appropriations.—There is authorized to carry out this section $10,000,000 for each of fiscal years 2023 through 2027, of which—

(1) $3,000,000 for each fiscal year shall be for the Secretary to carry out the quality control, auditing, and compliance activities required under this section; and

(2) $7,000,000 for each fiscal year shall be for the Secretary to assist recipients with setting up, improving, and carrying out mentor-protégé programs.

(f) Covered Large Recipients Defined.—In this section, the term “covered large recipients” means—

(1) a State department of Transportation;

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

(3) any recipient of airport funds authorized under section 47101 of title 49, United States Code, that operates a large hub airport (as such term is defined in section 47102(11) of title 49, United States Code; and

(4) recipients that are similar in size and purpose to recipients described in paragraphs (1) through (3), as determined by the Secretary.
SEC. 107. DEPARTMENT OF TRANSPORTATION DISADVANTAGED BUSINESS ENTERPRISE AND ACDBE CERTIFICATION UNIVERSAL RECOGNITION.

(a) Universal Certification Recognition.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall issue such regulations as are necessary to update parts 23 and 26 of title 49, Code of Federal Regulations, (or a successor regulation) to require States and recipients to recognize a certification issued by another State to a business recognizing such business as a Disadvantaged Business Enterprise or an ACDBE without further procedures.

(b) Certification Criteria.—In certifying a business as a Disadvantaged Business Enterprise or an ACDBE, a State shall meet any requirements that the Secretary establishes under section 11101(e)(5) of the Infrastructure Investment and Jobs Act (Public Law 117–58).

(c) Secretary Authority.—The Secretary shall have the authority to regulate certain items or issue standards that any recipient’s Disadvantaged Business Enterprise program or ACDBE program shall meet as part of universal certification recognition under this section, including—

(1) the transportation contracts that a Disadvantaged Business Enterprise or ACDBE shall
have access to bid on once such business obtains Disadvantaged Business Enterprise or ACDBE certification;

(2) any differences in the way a State a recipient treats a home state Disadvantaged Business Enterprise or ACDBE versus an out of State Disadvantaged Business Enterprise or ACDBE;

(3) access to a State or recipient’s resources and information that an out of State Disadvantaged Business Enterprise or ACDBE has access to once such business obtains a Disadvantaged Business Enterprise or ACDBE certification; and

(4) any other area the Secretary determines necessary to ensure the success of universal certification recognition.

(d) AUDITING.—

(1) IN GENERAL.—The Secretary shall periodically audit States and recipients to ensure that such States are recognizing a certification issued by another State to a business recognizing such business as a Disadvantaged Business Enterprise or ACDBE without further procedures.

(2) USE OF INFORMATION.—The findings of the audits under paragraph (1) shall inform any up-
dates to the regulations that the Secretary issues under subsection (e).

(e) COMPLIANCE.—In carrying out this section, the Secretary shall issue such regulations as are necessary to update parts 23 and 26 of title 49, Code of Federal Regulations, to make clear that a Disadvantaged Business Enterprise program or ACDBE program of a recipient is not in compliance with this section unless said recipient’s Disadvantaged Business Enterprise program or ACDBE program recognizes a certification issued by another State to a business recognizing such business as a Disadvantaged Business Enterprise or ACDBE without further procedures and meets any standards established by the Secretary under subsection (e).

SEC. 108. INCENTIVES FOR EXCELLENCE IN DISADVANTAGED BUSINESS ENTERPRISE PROGRAMS AND ACDBE PROGRAMS.

(a) ESTABLISHMENT OF EXCELLENCE AWARDS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish an awards program that recognizes recipients that have excellent Disadvantaged Business Enterprise programs or ACDBE programs.

(b) ANNUAL AWARDS.—The Secretary shall on an annual basis review recipients’ Disadvantaged Business Enterprise programs or ACDBE programs and recognize
certain recipients that have excellent Disadvantaged Business Enterprise programs or ACDBE programs through the awards program under subsection (a).

(c) CRITERIA FOR AWARDS.—In carrying out the awards program established under subsection (a), the Secretary shall consider the following criteria:

(1) How high the Disadvantaged Business Enterprise or ACDBE participation goal of the Disadvantaged Business Enterprise program or ACDBE program is.

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

(3) How much successful growth a Disadvantaged Business Enterprise or ACDBE in the program has.

(4) To what extent and how well a Disadvantaged Business Enterprise program or ACDBE program welcomes new Disadvantaged Business Enterprises or ACDBEs.

(5) How well a Disadvantaged Business Enterprise program or ACDBE program assists all socially and economically disadvantaged individuals in overcoming barriers to participation.
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(6) The existence of and the quality of a mentor-protégé program.

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

(d) Adjusting Criteria.—The Secretary may adjust the criteria under subsection (c) to account for a recipient’s size, type of business, geographic location, or any other characteristic the Secretary determines necessary.

(e) Discretionary Grant Preference.—The Secretary shall provide preferences for discretionary grant funding awards to recipients that are recognized under subsections (a) and (b).

(f) Notice of Funding Opportunities.—Notwithstanding any other provision of law or regulation, the Secretary shall ensure that any notice of funding opportunity or availability for discretionary grant funding issued by the Secretary contains the preferences under subsection (e).

(g) Timing of Requirement.—Subsection (f) shall apply to any notice of funding opportunity or availability issued after the date of enactment of this Act.

(h) Additional Incentives.—In addition to the grant preferences under subsection (e), the Secretary may
provide additional incentives to recipients that are recognized under subsections (a) and (b).

(i) REPORTING.—The Secretary shall—

(1) make available on the Department of Transportation’s website a list of recipients being recognized for excellent Disadvantaged Business Enterprise or ACDBE programs under subsection subsections (a) and (b);

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

(3) provide information regarding the recipients’ Disadvantaged Business Enterprise or ACDBE programs, including a link to the recipients’ program website; and

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

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to carry out this section $2,000,000 for each of fiscal years 2023 through 2027.

SEC. 109. REPORTING REQUIREMENTS AND STANDARDS FOR WAIVERS AND EXEMPTIONS.

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

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

(1) The name of the recipient granted the waiver or exemption.

(2) The name of the concerned operating administration or model agency that granted the waiver or exemption.

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

(4) The reason the concerned operating administration or model agency granted the waiver.

(5) A description of the conditions in the recipient’s jurisdiction that made the situation appropriate to grant the recipient’s program proposal.

(6) The duration of the waiver.

(7) The public participation a recipient conducted in developing such recipient’s request, including any consultations with the Disadvantaged Business Enterprise and ACDBE communities.
(8) Any other information the Secretary determines necessary.

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

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

(2) report the total number of waivers or exemptions that a concerned operating administration or model agency granted that year; and

(3) report the total number of waivers or exemptions that a recipient applied for or was granted that year.

(d) STANDARDS FOR GRANTING WAIVERS.—Not later than 2 years after the date of enactment of this Act, and every 5 years thereafter, the Secretary shall issue such regulations as may be necessary to update regulations regarding the standards for granting waivers or exemptions to a recipient from any requirement under parts 23 and 26 of title 49, Code of Federal Regulations, in order to minimize the improper granting of such waivers or exemptions.
(e) CONSIDERATIONS.—In carrying out subsection (d), the Secretary shall consider—

(1) creating a uniform list of reasons for granting waivers or exemptions;

(2) creating a uniform list of conditions in jurisdictions that are appropriate for granting waivers or exemptions;

(3) limiting the number of waivers or exemptions a recipient can receive;

(4) requiring a recipient to conduct more public hearings and consultations with the Disadvantaged Business Enterprise and ACDBE communities before a proposal for a waiver or exemption can be granted; and

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

(f) AUDITING.—

(1) IN GENERAL.—The Secretary shall periodically audit concerned operating administrations or model agencies to ensure that such administrations or agencies are minimizing the improper granting of waivers or exemptions to a recipient from any re-
quirement under parts 23 and 26 of title 49, Code
of Federal Regulations.

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

(g) AUTHORIZATION OF APPROPRIATIONS.—There is
authorized to carry out this section $3,000,000 for each
of fiscal years 2023 through 2027.

SEC. 110. ADVISORY COMMITTEE ON DISADVANTAGED
BUSINESS ENTERPRISES AND ACDBES.

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

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

(2) DUTIES.—The duties of the Committee
shall be to provide a forum for stakeholders to dis-
cuss and make policy recommendations to Congress
with respect to advancing the success of Disadvan-
tage Business Enterprises and ACDBEs in the
transportation, infrastructure, construction, and
building industries.
(3) MEMBERSHIP.—

(A) VOTING MEMBERS.—The Committee shall be composed of the following voting members:

(i) The Secretary or the Secretary’s designee.

(ii) The Administrator or the Administrator’s designee.

(iii) A representative of State governments.

(iv) A representative of local governments.

(v) A representative of county governments.

(vi) A representative of State Departments of Transportation.

(vii) A representative of transit agencies.

(viii) A representative of airports.

(ix) A representative from the Conference of Minority Transportation Officials.

(x) Two individuals who have experience advocating for Disadvantaged Business Enterprises or ACDBEs.
(xi) Two or more representatives from Disadvantaged Business Enterprises or ACDBEs owned by persons of color.

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

(B) APPOINTING AUTHORITY.—The Secretary shall appoint all members of the Committee, except for the Administrator, who shall have a self-executing appointment.

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

(D) TERM LENGTH.—

(i) IN GENERAL.—Each member, except for the Secretary or the Administrator, shall serve for an initial term of 4 years on the Committee.

(ii) REAPPOINTMENT.—A member whose term has expired may be reappointed to the Committee for subsequent terms.

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

(F) NON-VOTING MEMBERS.—The Secretary may allow additional interested stakeholders to attend and participate in the activities of the Committee as non-voting members.

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

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

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

(5) REPORT.—

(A) IN GENERAL.—Not later than 2 years after the establishment of the Committee, the Committee shall submit to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Environment and Public Works of the Senate, the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Small Business and Entrepreneurship of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Small Business of the House of Representa-
tives a report that contains recommendations, supported by at least a majority of all voting members. Such report shall include recommendations regarding—

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

(ii) policy or regulatory changes to help increase the number of prime contractors that are Disadvantaged Business Enterprises or ACDBEs;

(iii) policy or regulatory changes to address the penalization that occurs when businesses owned by women or persons of color become too large to qualify as Disadvantaged Business Enterprises or ACDBEs;

(iv) policy or regulatory changes to address the structural and legacy barriers faced by women and persons of color in attempting to enter or succeed in the transportation, construction, and building industries;
(v) policy or regulatory changes to increase the access of Disadvantaged Business Enterprises or ACDBEs to financial capital and other necessary ancillary services to succeed; and

(vi) ways to make existing Federal technical assistance programs such as small business transportation resource centers, small business development centers, minority business development centers, and procurement technical assistance centers work better and reach more Disadvantaged Business Enterprises and ACDBEs.

(B) DISSENTING VIEWS.—The report in subparagraph (A) shall include a section allowing any dissenting views and the dissent’s rationale from the majority’s recommendations.

(6) ADDITIONAL REPORTS.—After the submission of the report under paragraph (5), the Committee shall, from time to time at an appropriate time determined by the Committee, submit to the Secretary and Congress subsequent reports that are consistent with the duties of the Committee described in paragraph (2).
(7) COMPENSATION.—Members of the Committee shall serve without compensation, but may be allowed travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 7 of title 5, United States Code.

(8) SUPPORT.—The Secretary shall use the resources of the Department of Transportation and the Office of the Secretary to provide support to the Committee.

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

c) REGULATIONS.—The Secretary shall have the authority to issue or modify any regulations necessary to carry out subsection (a).

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

TITLED II—SMALL BUSINESS ADMINISTRATION

SEC. 201. UPDATE TO SMALL BUSINESS CONCERN DISADVANTAGED BUSINESS NET WORTH CAPS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall update part 124 of title 13, Code of Federal Regulations,
with respect to the maximum net worth of an individual claiming economic disadvantage to be equal to the net worth cap established by the Secretary of Transportation under section 101.

(b) **ADJUSTMENT.**—

(1) **INTERVAL.**—On the first January 1 that is 2 years after the date the Administrator makes the update described in subsection (a), and annually thereafter, the Administrator shall adjust the maximum net worth described in subsection (a) for inflation using a metric developed by the Administrator.

(2) **METRIC.**—In developing the metric described in paragraph (1) to account for inflation, the Administrator shall—

(A) consider using the Consumer Price Index published by the Bureau of Labor Statistics in such metric;

(B) solicit and consider the recommendations of the Secretary of Transportation; and

(C) solicit and consider public comment on the appropriate metric to use and whether such metric should take into account regional variations in maximum net worth.

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

(c) REPORT ON NET WORTH VARIATION.—

(1) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the Administrator shall submit to the Small Business and Entrepreneurship Committee of the Senate and the Small Business Committee of the House of Representatives a report examining the feasibility of, and the benefits and drawbacks of adjusting the maximum net worth under subsection (a) for regional variations in maximum net worth.

(2) REPORT REQUIREMENTS.—The report required under paragraph (1) shall contain—

(A) an analysis of the feasibility of measuring regional variations in maximum net worth;

(B) an examination of possible methods to measure regional variations in maximum net worth;

(C) an examination of the efforts of other Federal agencies to develop metrics on a regional basis and whether such efforts could be
applicable measuring regional variations in maximum net worth;
(D) the benefits and costs of measuring regional variations in maximum net worth; and
(E) a recommendation on whether or not the Small Business Administration should measure regional variations in maximum net worth.

(3) CONSULTATION.—In preparing the report required under this paragraph, the Administrator shall consult with interested persons, including—

(A) owners of socially and economically disadvantaged small business concerns (as defined in section 8(a)(4)(A) of the Small Business Act (15 U.S.C. 637(a)(4)(A)));
(B) owners of concern that would that would qualify as a socially and economically disadvantaged small business concern but for the maximum net worth established in part 124 of title 13, Code of Federal Regulations, as in effect on the date of the enactment of this Act;
(C) other Federal agencies;
(D) State or local chambers of commerce or equivalent organizations; and
(E) groups representing or advocating for owners of socially and economically disadvantaged small business concerns.

SEC. 202. UPDATE TO CERTAIN SIZE STANDARDS UNDER THE SMALL BUSINESS ACT.

(a) CERTAIN SIZE STANDARDS REVIEW.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall conduct a detailed review of the size standards for small business concerns established under section 3(a) of the Small Business Act (15 U.S.C. 632(a)) and part 121 of title 13, Code of Federal Regulation (or a successor regulation), including a review of the size standards methodology contained in “Small Business Size Standards: Revised Size Standards Methodology” (84 Fed. Reg. 14587 (April 11, 2019)), for concerns assigned a North American Industry Classification System code beginning with 23 or 48 and make the appropriate adjustments to the size standards for such concerns.

(b) CONSULTATION.—In carrying out the review described in subsection (a), the Administrator shall consult with interested persons, including—

(1) owners of socially and economically disadvantaged small business concerns (as defined in section 8(a)(4)(A) of the Small Business Act (15
U.S.C. 637(a)(4)(A)) assigned a North American Industry Classification System code beginning with 23 or 48;

(2) owners of concerns in the industries assigned a North American Industry Classification System code beginning with 23 or 48 that would qualify as a socially and economically disadvantaged small business concern but for the size standards established in part 121 of title 13, Code of Federal Regulations, as in effect on the date of the enactment of this Act;

(3) the Secretary of Transportation;

(4) groups representing or advocating for owners of socially and economically disadvantaged small business concerns in the industries covered by subsection (a);

(5) groups representing construction businesses and transportation and warehousing businesses; and

(6) State or local chambers of commerce or equivalent organizations.

(c) REQUIREMENTS.—In making an adjustment described in subsection (a), the Administrator shall—

(1) presume that market conditions have changed as a result of the increase in infrastructure
spending in the Infrastructure Investment and Jobs Act (Public Law 117–58); and

(2) ensure that the size standards described in subsection (a) are increased by an amount equal to at least 150 percent of such size standards that are in effect on the date of the enactment of this Act, unless the Administrator determines that such action would jeopardize Federal assistance provided to owners of socially and economically disadvantaged small business concerns.

(d) REPORT.—Not later than 30 days after the date on which the Administrator makes an adjustment under subsection (a), the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives, make publicly available, a report on the review, including—

(1) information on the factors evaluated for each review conducted under subsection (a);

(2) a description of any adjustment made to each size standard that was reviewed pursuant to subsection (a), including any revisions made to size standard methodology pursuant to subsection (a), and the rationale for that adjustment; and
(3) if the Administrator makes a determination to not increase a size standard by an amount equal to at least 150 percent of such size standards that are in effect on the date of the enactment of this Act (as described in subsection (c)(2)), an explanation of the rationale for such determination.

SEC. 203. ANNUAL GROSS RECEIPTS TIMELINE UNDER THE SMALL BUSINESS ACT.

(a) Gross Receipts Timeline.—Section 3(a)(2)(C)(ii)(II) of the Small Business Act (15 U.S.C. 632(a)(2)(C)(ii)(II)) is amended by striking “5 years” and inserting “7 years”.

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

SEC. 204. DEFINITION OF ASSETS UNDER THE SMALL BUSINESS ACT.

(a) Definition of Assets.—Section 8(a)(6)(E) of the Small Business Act (15 U.S.C. 637(a)(6)(E)) is amended—

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

(2) by adding the following new clauses:
“(iii) retirement savings accounts of disadvantaged owners;

“(iv) investments in real estate other than primary personal residences of disadvantaged owners; and

“(v) equity in businesses that are not certified under this subsection of disadvantaged owners.”.

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

SEC. 205. SMALL BUSINESS DEVELOPMENT CENTER PARTNERSHIPS WITH THE DEPARTMENT OF TRANSPORTATION.

(a) ESTABLISHMENT OF PARTNERSHIP.—Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) in subparagraph (T), by striking “and” at the end;

(2) in clause (v) of the first subparagraph (U) (relating to succession planning), by striking the period at the end and inserting a semicolon;
(3) in second subparagraph (U) (relating to training on domestic and international intellectual property protections)—

(A) in clause (ii)(II), by striking the period at the end and inserting a semicolon; and

(B) by redesignating such subparagraph as subparagraph (V); and

(4) by adding at the end the following new subparagraph:

“(W) pursuant to a cooperative agreement entered into under section 205 of the Giving Disadvantaged Businesses Opportunities for Success Act, providing assistance to Disadvantaged Business Enterprises (as such term is defined in part 26.5 of title 49, Code of Federal Regulations), Airport Concession Disadvantaged Business Enterprises (as such term is defined in part 23.3 of such title 49), and small business concerns in starting or expanding businesses in Federally assisted surface transportation markets and obtaining the necessary capital, financial, and business expertise operate such business.”.

(b) COOPERATIVE AGREEMENT.—Not later than one year after the date of the enactment of this Act, the Sec-
retary and the Administrator shall enter into a cooperative agreement to allow Disadvantaged Business Enterprises and ACDBEs to have access to small business development centers in the State in which a Disadvantaged Business Enterprise or ACDBE, respectively, has its principal place of business.

(c) TERMS OF AGREEMENT.—The Secretary and Administrator shall determine the terms and conditions of the cooperative agreement required by subsection (a), which shall include the following:

(1) The ways in which small business development centers and small business transportation resource centers of the Department of Transportation will formally partner to carry out the cooperative agreement.

(2) A process by which the Secretary may provide assistance and expertise, including resources controlled by the Secretary and small business transportation resource centers, to small business development centers to carry out the agreement.

(3) Access for Disadvantaged Business Enterprises to the following assistance from small business development centers:

(A) Estimating.

(B) Bonding and insurance.
(C) Cash flow management.

(D) Project management.

(E) Assistance with pre-qualification applications to be eligible to bid on contracts.

(F) Post contract award management.

(G) Any other area determined necessary by the Administrator and Secretary.

(4) Methods to encourage collaboration between small business development centers and nonprofit organizations with relevant transportation construction or Disadvantaged Business Enterprises expertise.

(d) DBE AND ACDBE PROGRAMS.—The Secretary shall require each recipient with a Disadvantaged Business Enterprise program or ACDBE program certified by the Secretary under section 11101(e)(5)(A) of the Infrastructure Investment and Jobs Act (Public Law 117–58) or part 23 of title 49, Code of Federal Regulations, to—

(1) educate Disadvantaged Business Enterprises or ACDBEs about available assistance from small business development centers; and

(2) upon request by the Administrator or a small business development center, provide assistance and expertise to small business development centers located in the same State as the recipient.
(e) STATUS UPDATES.—The Secretary and Administrator shall provide updates to the Committee on Transportation and Infrastructure and the Committee on Small Business of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Small Business and Entrepreneurship of the Senate on the status of the cooperative agreement required under subsection (b) every 6 months beginning on the date of the enactment of this Act and ending on the date on which such agreement is finalized.

(f) COMPLIANCE.—In carrying out the requirements under this section, the Secretary shall issue such regulations as are necessary to update parts 23 and 26 of title 49, Code of Federal Regulations, to clarify that a Disadvantaged Business Enterprise program or ACDBE program is not in compliance with this section unless the Disadvantaged Business Enterprise program or ACDBE program of such recipient has complied with the requirements in subsection (d).

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, for each of fiscal years 2023 through 2027, to carry out the activities under the cooperative agreement required under subsection (b)—

(1) $5,000,000 to the Secretary; and

(2) $5,000,000 to the Administrator.
SEC. 206. SMALL BUSINESS DEVELOPMENT CENTER PARTNERSHIPS WITH NONPROFITS.

(a) Nonprofit Eligibility.—Section 21(a)(3) of the Small Business Act (15 U.S.C. 648(a)(3)) is amended—

(1) in subparagraph (C), by inserting “(including nonprofit organizations)” after “private partnerships”; and

(2) by adding at the end the following new subparagraphs:

“(D) Each small business development center shall develop and implement a process under which a nonprofit organization may apply at least once every 2 years to partner with such small business development center to provide services, expertise, or resources to enhance and expand the services of such small business development center.

“(E) A small business development center may make a subgrant or subaward of any Federal funds awarded to such small business development center to a partner nonprofit organization (as described in subparagraph (D)) to carry out activities of the small business development center.”.

(b) Rulemaking.—Not later than 2 years after the date of the enactment of this Act, the Administrator shall
issue or amend such rules as are necessary to carry out
the amendments made by subsection (a).