



FRAME FOR MOBILITY · TITLE V, SUBTITLE A

STATE ENVIRONMENTAL RESPONSIBILITY ACT

Permanent environmental review assignment — and the capacity to carry it

A FRAME Policy Paper · Title V of the FRAME Act, Official Draft of December 15, 2025

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PART I

THE PROBLEM

Before a federal-aid transportation project can be built, it must clear federal environmental review — and the review is measured in years. The Council on Environmental Quality's study of every Environmental Impact Statement completed across the federal government from 2010 through 2018 — 1,276 statements, the full population, not a sample — found a mean of **4.5 years** from Notice of Intent to Record of Decision, a median of 3.5 years, and one quarter of all statements taking more than six years.

ENVIRONMENTAL REVIEW, MEASURED

4.5 yrs

Mean time, Notice of Intent to Record of Decision, federal EISs completed 2010–2018 (median 3.5 years) — CEQ

1,276

Environmental Impact Statements in the CEQ dataset — the full federal population, not a sample

>6 yrs

Duration exceeded by one quarter of all EISs in the study period — CEQ

The delay is structural, not clerical. The analyses that fill an environmental record are prepared, in the main, by the State departments of transportation that sponsor the projects; the record then waits, in sequence, on federal reviewers whose attention is divided among fifty State programs at once.

The Government Accountability Office's examination of the two regimes (GAO-15-71) found the federal and State environmental review requirements substantially similar, with little duplication of effort — 17 of the 18 States with State environmental policy acts allow adoption of FHWA analyses to satisfy State requirements. Where two reviewers ask the same questions of the same record, sequential review adds a queue, not scrutiny.

A remedy exists, and has for two decades — but the statute still treats it as an experiment. Under environmental review assignment, a State assumes the federal reviewer's responsibilities itself, under federal standards; seven States hold assignment today. Yet the governing statute continues to call the program a pilot, assignment remains available only project by project, and nothing funds the capacity a State needs to take the work on — the environmental counsel, biologists, historians, and data systems a defensible, federal-standard record requires. The problem, in one line: a proven instrument, still named a pilot, confined to one project at a time, and unsupported by any capacity funding — while the queue it bypasses runs years deep.

PART II

THE PROPOSED SOLUTION

Let the States do the reviewing themselves — permanently, and for their whole transportation programs, not project by project. A State that takes on the job must meet exactly the same federal environmental laws and standards that apply today. Nothing about what a project must prove changes. What changes is who sits in the reviewer's chair: the agency that designed the project and knows its ground, instead of a federal office working through every State's projects in turn.

The arrangement is not a handover; it is a contract. Each participating State signs a written agreement with the federal government, running up to ten years at a time, that spells out who is responsible for complying with which laws. The State must give the federal government whatever information it reasonably needs to confirm the work is being done properly. Federal auditors examine each participating State's performance at least every two years, and their reports are published for anyone to read. And one new duty comes with the authority: whenever a project would add new lanes for general traffic, the review must include a public analysis of how the project is expected to affect how much people drive and how much carbon it emits.

Authority without capability would fail, so the proposal pays for the capability. Federal grants — funded entirely by the federal government, with no State match — help States hire and train the specialists who conduct reviews, build the mapping tools and data systems a sound record depends on, and train the other State and local agencies that take part. States already doing the work can use the grants to improve or expand; States preparing to take it on can use them to get ready. The money goes first where the need is greatest — measured by how a State's current staffing stacks up against the work it would assume — and every grant comes with measures of success agreed and written down in advance.

WHAT CHANGES, IN PLAIN TERMS

The program becomes permanent. It stops being an experiment and becomes a standing way of doing the work.

A State can take responsibility for all of its highway, transit, and other surface transportation projects at once — not one project at a time.

The standards do not move. The same federal environmental laws apply in full; only the reviewer changes.

Performance is audited at least every two years, and the audit is public.

The capability is funded — staff, training, and systems paid for federally, the neediest States first.

PART III

THE LEGISLATIVE PROPOSAL

SEC. 501: THE ASSIGNMENT, SECTION BY SECTION

Purpose — Sec. 501(a). The stated purpose is “to accelerate transportation project delivery by empowering States to assume the environmental review responsibilities of the Secretary of Transportation under the National Environmental Policy Act of 1969.” The mechanism is amendment of existing law, not a new parallel program: the Act repairs the statute it inherits.

The amendments to 23 U.S.C. 327 — Sec. 501(b). Three surgical amendments carry the whole change. First, the section heading of § 327 is struck and replaced: “Surface transportation project delivery program” becomes “State assumption of environmental review responsibility” — the program is renamed for what it does. Second, in subsection (a)(1), the words “a pilot program” are struck and “a program” inserted; the word *pilot* leaves the United States Code. Third, scope: where subsection (a)(2)(A) today allows assignment “for 1 or more highway projects,” the bill substitutes assignment “for all or a portion of the highway, public transportation, and other surface transportation projects in the State.” Assignment ceases to be a project-by-project experiment and becomes available across a State’s surface transportation program, transit included.

The memorandum of understanding — Sec. 501(c). Each assignment runs under an MOU with a term of **not more than 10 years**, renewable by agreement of the Secretary and the State. The MOU must specify the parties’ responsibilities for compliance with all applicable federal laws, and the State must furnish the Secretary any information reasonably considered necessary to show it is adequately carrying the assigned responsibilities.

One substantive condition is new, and it is the subtitle’s disclosure rule: for any project that adds new general-purpose lane capacity, the State’s environmental review must include **a public analysis of the project’s anticipated impact on vehicle miles traveled and carbon dioxide emissions**, consistent with the methodology established under Section 408 of the Act (the Carbon and Vehicle Miles Traveled Scorecard). Delegation is paired with disclosure — the larger a project’s footprint, the more of its consequences must enter the public record before approval.

Audit and report — Sec. 501(d)–(e). The Secretary must audit each participating State’s performance **not less frequently than once every 2 years**, testing compliance with the MOU, and each audit report must be published on the Department’s website. Not later than 3 years after enactment, and every 2 years thereafter, the Secretary reports to the House Transportation and Infrastructure Committee and the Senate Environment and Public Works Committee on the program’s administration.

SEC. 502: CAPACITY-BUILDING GRANTS

Assignment fails where a State lacks the people and the systems to perform federal-standard review. Section 502 therefore establishes a **competitive grant program**, administered by the Secretary, to build the technical and administrative capacity assumption requires. Eligibility runs to a State department of transportation that is either actively seeking an MOU to assume responsibilities under the subtitle, or already participating and seeking to improve its processes or expand its capacity. The program funds entrants and incumbents alike — capacity is treated as a continuing condition of delegation, not an entry fee paid once.

WHAT THE GRANTS MAY FUND

- **People.** Hiring and training the environmental, legal, and technical staff dedicated to conducting environmental reviews.
- **Process and tools.** Developing efficient, data-driven review processes and analytical tools, expressly including geographic information systems and project tracking software.
- **Diffusion.** Training and technical assistance to the other State and local agencies involved in the review process — the capacity of the reviewing system, not only of the lead agency.
- **Secretarial discretion.** Other activities the Secretary determines will enhance a State’s ability to conduct timely, efficient, and effective reviews in accordance with federal law.

TERMS

Selection prioritizes, first, the greatest need — measured by current staffing levels and the anticipated complexity of the responsibilities to be assumed — and second, the strongest commitment to assuming the responsibilities in an expedited manner. The federal share is **100 percent**: capacity to perform a federal function is funded as a federal cost. Each grant is conditioned on a grant agreement specifying the activities to be carried out and the performance metrics by which their success will be measured. The subtitle states no authorization figure; the program’s scale is left to the Act’s general provisions and appropriations.

SEC. 501 – THE ASSIGNMENT

“Pilot” struck from 23 U.S.C. 327; assignment permanent and program-wide, under an MOU of up to 10 years — with published biennial audits and a public VMT and CO₂ analysis for added lane capacity.

SEC. 502 – THE CAPACITY

Competitive grants at a 100 percent federal share for the staff, processes, and tools assumption requires — need first, commitment second, success measured against metrics agreed in advance.

WHAT CHANGES AGAINST CURRENT LAW

“Pilot” is struck from 23 U.S.C. 327; the program is permanent and its heading renamed (**Sec. 501(b)**).

Scope widens from “1 or more highway projects” to all or a portion of a State’s highway, transit, and other surface transportation projects (**Sec. 501(b)(3)**).

MOU terms run to 10 years, with a new duty: public VMT and CO₂ analysis for added lane capacity, on the Section 408 methodology (**Sec. 501(c)**).

Oversight is codified: audits at least biennially, published; biennial reports to Congress (**Sec. 501(d)–(e)**).

Capacity is funded at a 100 percent federal share, against performance metrics agreed in advance (**Sec. 502**).

PART IV

THE DATA CASE

WHY IT WORKS, I: THE QUEUE IS THE COST

The case for the proposal begins with what the present arrangement costs, and the cost is queueing time. A queue’s delay is a function of its staffing against its load, and the federal review workforce — one reviewer corps for fifty State programs — is the narrowest point in the system. The measured record is set out in Part I: a 4.5-year mean against a 3.5-year median, with a quarter of reviews beyond six years. The distribution matters as much as the average: the gap between median and mean is the long tail, and it is in the tail that delay compounds — construction seasons missed, prices escalated, benefits deferred.

The second structural fact is whose record it is. The sponsors who prepare the underlying analyses are, in the main, the State departments of transportation themselves: they build the record, then wait for a second organization to review it. And the second review is rarely a second analysis. The Government Accountability Office’s examination of federal and State environmental review (GAO-15-71) found the requirements substantially similar and little duplication of effort — 17 of the 18 States with State environmental policy acts allow adoption of FHWA analyses to satisfy State requirements. Where two regimes ask the same questions of the same record, sequential review adds a queue, not scrutiny. Assignment removes the hand-off, not the standard: the same NEPA, the same federal environmental laws, the same documentation — decided by the agency that assembled it, audited by the agency that used to queue it.

WHY IT WORKS, II: ASSIGNMENT IN PRACTICE

Assignment under § 327 is not a theory awaiting a test; it is an institution with a two-decade record. USDOT's published list records **seven States** — Alaska, Arizona, California, Florida, Ohio, Texas, and Utah — holding NEPA assignment, alongside the California High-Speed Rail Authority; Maine executed an assignment MOU in January 2026. Participation has grown State by State under a statute that still calls itself a pilot — the anomaly Sec. 501(b) corrects by striking the word.

The documented dividend is time, and in California it is also money. An analysis of fiscal year 2017–18 attributed **\$13.4 million in savings** to Caltrans leading its own environmental reviews, through reduced project delay; the same record shows biological-opinion timeframes shortened by five months, achieved in part through interagency liaison positions the State funds inside the resource agencies — precisely the capacity investments Sec. 502 generalizes. Ohio's third NEPA Assignment self-assessment estimated **2,355 days of federal review time avoided in a single assessment period** across its program. These are agency analyses and self-assessments, and this paper presents them as such; their direction is uniform, and no participating State has exited the program.

Nor is delegation unsupervised in practice. The statute's audit architecture is the program's original design: FHWA audited Caltrans semiannually through its first two years and annually thereafter, and its published audit opinion found the Department “continued to make progress toward meeting all responsibilities assumed” under the MOU — with corrective actions from earlier audits implemented and commended. Caltrans continues to publish annual monitoring reports against MOU performance measures. FRAME's Sec. 501(d) writes that discipline into the permanent program: biennial audits, published, with biennial reports to the two committees of jurisdiction.

EVIDENCE CHECK

The savings attributed to assignment rest on State analyses and self-assessments, not controlled comparison; project mix differs across States and no rigorous counterfactual exists. The claim the full record supports is the one this paper makes: assignment eliminates a sequential review layer whose queueing delay is independently documented (Part I); the federal auditor's published findings on the longest-running program are of continued progress and implemented corrections; and participating States report large avoided-delay totals. On that evidence profile, the sound design is the one Secs. 501–502 enact — permanence, funded capacity, and audit in public, so the claim is tested on a statutory cycle rather than asserted.

The pairing of the two sections is the proposal's logic. The binding constraint on wider assignment has never been State willingness; it is State staffing — environmental counsel, biologists, historians, and the data systems a defensible record requires. A permanent program only the best-resourced States could enter would stratify delivery by State wealth. Section 502 inverts that: need, measured by staffing against complexity, is the first selection criterion; the federal share is 100 percent; success is defined in advance by agreed metrics. Delegate the decision to the level that holds the information, fund the capability the delegation requires, and audit the result in public — that sequence is the whole of the State Environmental Responsibility Act.



Decide where the information sits. Fund the capability the decision requires. Audit the result in public.

That sequence — permanence, funded capacity, published audit — is the whole of the State Environmental Responsibility Act, Title V, Subtitle A of the FRAME Act.

PART V

SOURCES & COLOPHON

Legislative text. FRAME Act, Official Draft of December 15, 2025, Title V, Subtitle A (Secs. 501–502); Table of Contents at Sec. 101. All section language, terms of years, and quoted phrases are as in the draft. The cross-reference at Sec. 501(c)(3)(B) is to Sec. 408 of the Act (Carbon and Vehicle Miles Traveled Scorecard, Title IV).

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