

Mike Keefe COLO. INDY 01.07.15

NOW MIGHT BE
A GOOD TIME
TO BOOST THE
GAS TAX AND
INVEST IN
INFRASTRUCTURE.

WHAT? AND
TAKE ALL THE
FUN OUT OF
DRIVING?!





National Association of County Engineers

“The Voice of County Road Officials”
Regional Local Roads Conference
October 20, 2022

SEE YOU NEXT YEAR!
BALDWIN COUNTY, ALABAMA



NACE Members

- County Engineers
 - Public Works Directors
 - Road Managers/Supervisors
 - Highway Superintendents
 - Traffic Engineers
 - Land Surveyors
 - Highway Department CAO's
 - Bridge Engineers
-and their staffs



Advocacy

Representing county engineers and professional road managers nationally.

- NACE Legislative Priorities
- Influencing Policy makers and key stakeholders
- Testimony before Congress
- Visits on Capitol Hill and legislative fly-ins
- Regular communications with legislators and agencies concerning NACE priorities and proposed legislation
- Information and alerts for individual call to action
- Increased Strategic Communications



@EngineersNACE

White House visits with the President



NACE Fly-In

- USDOT (Office of the Secretary)
- House T&I (Majority and Minority)
- Senate EPW (Majority)
- Member individual house visits
- Executive Branch Agencies (NEC, CEQ, OMB)



NACE Legislative Priorities

- Permit and Approval Process Streamlining
- Increased Federal Funding for Locals
- Highway Trust Fund Solvency
- Direct Funding for Locals
- Surface Transportation Reauthorization
- Infrastructure Spending Bill
- Safety



Influence through Advocacy



National Association of County Engineers @EngineersNACE
The reforms contained in today's final rule on NEPA will allow county governments to stretch precious infrastructure dollars further while remaining good stewards of the environment. @WhiteHouse @POTUS

https://naace.memberclicks.net/assets/docs/2020/NACE_NEPA_RULE_STATEMENT_07_15_2020.pdf ...
<pic.twitter.com/vwDw5TMYIV>

| | |
|---|----------------|
| Impressions times people saw this Tweet on Twitter | 305,845 |
| Total engagements times people interacted with this Tweet | 4,646 |
| Media engagements number of clicks on your media counted across videos, vines, gifs, and images | 1,745 |
| Detail expands times people viewed the details about this Tweet | 1,294 |
| Likes times people liked this Tweet | 861 |
| Retweets times people retweeted this Tweet | 277 |
| Profile clicks number of clicks on your name, @handle, or profile photo | 265 |
| Link clicks clicks on a URL or Card in this Tweet | 150 |



NACE COMMITTEES

- Emergency Preparedness
 - Pavement Preservation
 - Safety & Technology
 - Structures and Environment
 - Unpaved Roads
-
- Awards
 - Constitution & Bylaws
 - Corporate Services
 - Legislative
 - Membership



THE INFRASTRUCTURE INVESTMENT & JOBS PLAN

On August 10, the U.S. Senate passed the Infrastructure Investments and Jobs Act (IIJA) in a 69-30 vote. The bipartisan infrastructure legislation would provide \$973 billion over five years from FY 2022 through FY 2026, including \$550 billion in new investments for all modes of transportation, water, power and energy, environmental remediation, public lands, broadband and resilience.

Above baseline investments for sectors addressed in IIJA include:

Transportation: \$284 billion

Water: \$55 billion

Broadband: \$65 billion

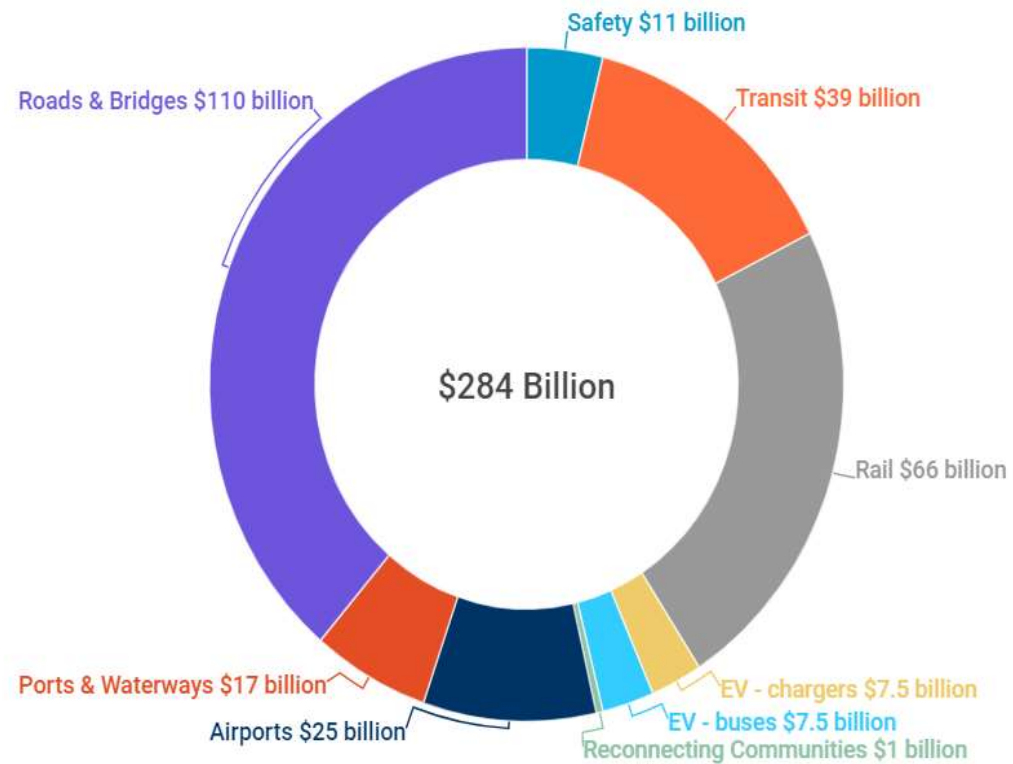
Energy & Power: \$73 billion

Environmental remediation: \$21 billion

Western water infrastructure: \$8.3 billion

Resiliency: \$46 billion

INFRASTRUCTURE INVESTMENT AND JOBS ACT BREAKDOWN OF TRANSPORTATION-RELATED FUNDS



Bipartisan Infrastructure Law

Funds highway programs for five years (FY 22-26)

- \$350.8 B (FY 22-26) for highway programs \$303.5 B in Contract Authority (CA) from the Highway Trust Fund (HTF)
- \$47.3 B in advance appropriations from the General Fund (GF)

More than a dozen new highway programs, including

- **Formula:** resilience, carbon reduction, bridges and electric vehicle (EV) charging infrastructure
- **Discretionary:** bridges, EV charging infrastructure, rural projects, resilience, wildlife crossings, and reconnecting communities

Focus on safety, bridges, climate change, resilience, and project delivery

- More opportunities for local governments and other non-traditional entities to access new funding
- \$90 B transfer (General Fund -> Highway Trust Fund) to keep the HTF Highway Account solvent for years

Funding Available to a Range of Recipients

| Program Examples | State | MPO | Local | Tribe | PA* | Territory | FLMA* |
|---|-------|-----|-------|-------|-----|-----------|-------|
| Apportioned programs (formula) | ✓ | | | | | | |
| Bridge Program (formula) | ✓ | | | ✓ | | | |
| National Electric Vehicle Formula Program | ✓ | | ✓ | | | | |
| Safe Streets and Roads for All program | | ✓ | ✓ | ✓ | | | |
| PROTECT Grants (discretionary) | ✓ | ✓ | ✓ | ✓ | ✓ | | ✓ |
| Charging and Fueling Infrastructure Program | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | |
| Congestion Relief Program | ✓ | ✓ | ✓ | | | | |
| Bridge Investment Program (discretionary) | ✓ | ✓ | ✓ | ✓ | ✓ | | ✓ |
| Reconnecting Communities Pilot Program | ✓ | ✓ | ✓ | ✓ | | | |
| Rural Surface Transportation Grants | ✓ | | ✓ | ✓ | | | |
| INFRA | ✓ | ✓ | ✓ | ✓ | ✓ | | ✓ |
| Nat'l Infra. Project Assistance | ✓ | ✓ | ✓ | ✓ | ✓ | | |
| Local and Regional Project Assistance | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | |

BIPARTISAN INFRASTRUCTURE LAW: COMPETITIVE FUNDING OPPORTUNITIES

| | PROGRAM | AGENCY | SUB-AGENCY | FY 2022 FUNDIN... | FIVE-YEAR FUNDING LE... | TYPE OF FUNDING |
|----|---|--------------------------------|------------------------------|-------------------|--------------------------|-----------------|
| 4 | Rural ReConnect Program | U.S. Department of Agriculture | Rural Utilities Service | \$1.9 billion | \$1.9 billion in FY 2022 | Competitive |
| 5 | Community Wildfire Defense Grant | U.S. Department of Agriculture | U.S. Forest Service | \$600 million | \$1 billion | Competitive |
| 6 | Ecosystem Restoration: Good Neighbor Agreements | U.S. Department of Agriculture | U.S. Forest Service | \$200 million | \$200 million in FY 2022 | Competitive |
| 7 | Ecosystem Restoration: Stewardship Contracts | U.S. Department of Agriculture | U.S. Forest Service | \$200 million | \$200 million in FY 2022 | Competitive |
| 8 | Community Based Habitat Restoration Program | U.S. Department of Commerce | National Oceanic and At... | \$98.2 million | \$491 million | Competitive |
| 9 | Enhancing Fish Passage and Technical Assistance | U.S. Department of Commerce | National Oceanic and At... | \$80 million | \$400 million | Competitive |
| 10 | Marine Debris Program | U.S. Department of Commerce | National Oceanic and At... | \$30 million | \$150 million | Competitive |
| 11 | National Oceans and Coastal Security Fund | U.S. Department of Commerce | National Oceanic and At... | \$98.4 million | \$492 million | Competitive |
| 12 | Enabling Middle Mile Broadband Infrastructure Program | U.S. Department of Commerce | National Telecommunica... | \$1 billion | \$1 billion in FY 2022 | Competitive |
| 13 | Rural and Municipal Utility Advanced Cybersecurity Grant and Technical Assistance ... | U.S. Department of Energy | Office of Cybersecurity, ... | \$50 million | \$250 million | Competitive |

THE INFRASTRUCTURE INVESTMENTS & JOBS ACT

Major Provisions for Counties

- Creates a new, \$40 billion Bridge Investment Program that off-system bridges would be eligible for to repair, replacement and rehabilitation.
- Codifies elements of the Trump Administration's "One Federal Decision" that would require one federal agency to be responsible for issuing a decision resulting from a National Environmental Policy Act (NEPA) review, among other reforms, such as limiting the allowable number of pages for a decision
- Increases project cost thresholds for categorical exclusions, thereby making more projects eligible for streamlining
- Authorizes \$3.5 billion for the Weatherization Assistance Program in FY 2022
- Includes \$5 billion over five years for a new grant program to support activities that reduce the likelihood and consequence of impacts to the electric grid due to extreme weather, wildfire and natural disaster
- Establishes a new competitive grant program for local governments to address and eliminate at-grade rail crossings
- Establishes a new State and Local Cybersecurity grant program
- Private Activity Bonds (PABs): additional authorization of \$15 Billion

Surface Transportation Reauthorization: Highways, Transit & Rail Programs

Surface Transportation Block Grant (STBG) Program

- Increases the off-system bridge set-aside. Under the bill, not less than 20 percent of a state's STBG allocation would need to be spent on bridges that are located off of the Federal-aid HWY system (up from 15 percent under current law).
- Increases the off-system bridge set-aside | \$5.18 billion over five years
- Creates a new set-aside for transportation projects in rural areas.
- Creates a new population tranche for STBG suballocated funds (new category is for areas with a population of 50,000 to 200,000).
- Increases the amount of funding set aside for the Transportation Alternatives Program (TAP) and increases the minimum percentage of TAP funding that is sub-allocated on the basis of population.
- Adds new eligibilities to STBG, including construction of wildlife crossing structures, electric vehicle charging infrastructure and vehicle-to-grid infrastructure, installation and deployment of intelligent transportation technologies, projects that facilitate intermodal connections between emerging transportation technologies, resilience features, cybersecurity protections, etc.

Changes to Surface Transportation Block Grant Program (STBG)

| Topics | Changes |
|--------------------|---|
| Eligible projects | <p>Adds several new types of eligible projects, including:</p> <ul style="list-style-type: none"> • EV charging infrastructure • protective features to enhance resilience • wildlife crossing projects |
| Off-system bridges | <ul style="list-style-type: none"> • Increases off-system bridge set-aside • Adds eligibility to include replacing a low water crossing with a bridge |
| Sub- allocation | <ul style="list-style-type: none"> • Population categories for sub-allocation split into smaller ranges: <ul style="list-style-type: none"> ○ < 5,000 ○ [NEW] 5,000 – 49,999 ○ [NEW] 50,000 – 200,000 ○ >200,000 • Requires States to consult with RTPOs and MPOs for urbanized areas with 50,000-200,000 pop. before using certain suballocated funding |
| Rural Areas | <ul style="list-style-type: none"> • Permits States to use up to 15% of funds for eligible projects or maintenance on non-Federal aid highways in rural areas, and up to 5% for certain barge landing, dock and waterfront infrastructure projects |

BIPARTISAN INFRASTRUCTURE LAW: USDOT FORMULA PROGRAMS TO STATES

**STBG funds
available for
sub-allocation in
FY 2022:
\$6.7 BILLION
10% increase over
FY 2021**

**NEW!
STBG fourth
population band
added**

| STBG POPULATION BANDS | FY2021 | FY2022 | % CHANGE |
|--|----------------|----------------|----------------|
| Areas of 200,000 and above <i>(metropolitan planning organization [MPO] has obligation authority)</i> | \$3.5B | \$3.8B | +10.4% |
| Areas between 49,999 and 200,000 – NEW BAND <i>(states must consult with MPO or regional transportation planning organization [RTPO])</i> | N/A | \$702.8M | Combined below |
| Areas between 5,000 and 49,999 – NEW BAND <i>(states must consult with RTPO)</i> | N/A | \$607.5M | Combined below |
| Areas between 5,000 and 200,000* <i>(for FY 21 comparison)</i> <small>*No longer a STBGP population band **FY 2022 number represents total of areas between 49,999 and 200,000 and areas between 5,000 and 49,999</small> | \$1.2B | \$1.3B** | +10.1% |
| Areas less than 5,000 <i>(states must consult with RTPO)</i> | \$1.4B | \$1.6B | +10.6% |
| STBG FY 2022 TOTAL SUB-ALLOCATIONS BASED ON POPULATION | \$6.08B | \$6.70B | +10.2% |

Changes to National Highway Performance Program (NHPP)

Augments the purpose of the NHPP to include a focus on measures that increase resiliency to the impacts of sea level rise, extreme weather events, flooding, and other natural disasters, such as earthquakes and rockslides. Expands eligibility for States to use NHPP funds for resiliency, cybersecurity, and undergrounding utility infrastructure. The bill also allows a State to use up to 15 percent of its NHPP funding for protective features on a Federal-aid highway or bridge that is off the NHS if the protective feature is designed to mitigate the risk of recurring damage or the cost of future repairs from extreme weather events, flooding, or other natural disasters.

| Topic | Changes |
|------------------------|---|
| Program purpose | <p>Adds as an additional program purpose:</p> <ul style="list-style-type: none">• providing support for activities to increase the resiliency of the NHS to mitigate the cost of damages from sea level rise, extreme weather events, flooding, wildfires, or other natural disasters |
| Eligible projects | <p>Adds new eligible projects:</p> <ul style="list-style-type: none">• undergrounding public utility infrastructure carried out in conjunction with an otherwise eligible project• resiliency improvements (including protective features) on the NHS• activities to protect NHS segments from cybersecurity threats.• protective features (related to mitigating risk of recurring damage or the cost of future repairs from extreme weather events, flooding, or other natural disasters) on Federal-aid highways/bridges off the NHS ($\leq 15\%$ of NHPP funds) |
| Asset management plans | <ul style="list-style-type: none">• Requires consideration of extreme weather and resilience in lifecycle cost and risk management analyses |

What is the BIP?

- The Bipartisan Infrastructure Law (BIL) established a new program, the Bridge Investment Program (BIP) under 23 U.S.C. 124
- In addition, BIL designated funding for FY22 through FY26 for this program
- BIL established two funding categories within BIP: Large Projects (Large Bridge Projects) and Other than Large Projects (Bridge Projects)
- For FY22-FY26, a third funding category was added: Planning Grants (Division J, Title VIII of BIL)

Source: USDOT

Surface Transportation Reauthorization: Highways, Transit & Rail Programs

FY 2022 – FY 2026

Highlights for Counties:

CREATES NEW BRIDGE INVESTMENT PROGRAM (BIP)

- Counties could apply directly to USDOT for the competitive portion of the BIP to carry out small and large bridge projects. Eligible projects would be defined as those meeting the following goals, including:
- Reducing the number of bridges already in poor condition or those that are in fair condition but are at risk of falling into poor condition in the next three years
- Reducing the number of bridges and the amount of individual vehicle miles traveled (VMT) over bridges in poor or vulnerable condition, as well the VMT over bridges that do not meet current design standards or that have weight restrictions
- The federal share for projects would be no more than 50 percent for large projects (defined as those costing more than \$100 million) and no more than 80 percent for any other project. Off-system bridges would be eligible.
- While states would receive the BIP formula funds, the bill would create a 15 percent set-aside within the program to address off-system bridges, much like STBG.

BIPARTISAN INFRASTRUCTURE LAW: BRIDGE FORMULA PROGRAM

| |
|-------------------------------|
| BFP in FY22 |
| Bridges |
| \$4.51 BILLION |
| Off-System Bridges |
| \$796 MILLION |
| FY22 TOTAL |
| \$5.3 BILLION |

- **\$5.5 BILLION** in formula funds to state DOTs annually through FY 2026 + NEW 15% off-system bridge (OSB) set-aside
- 100% federal cost share incentive for state DOTs to further invest in OSBs beyond the 15% requirement
- Each state will receive at least **\$45 MILLION** annually, making at least \$6.75 MILLION available for **off-system bridges** annually in all 50 states

Eligible Applicants

1. A State or a group of States;
2. A metropolitan planning organization that serves an urbanized area (as designated by the Bureau of the Census) with a population over 200,000;
3. A unit of local government or a group of local governments;
4. A political subdivision of a State or local government;
5. A special purpose district or a public authority with a transportation function;
6. A Federal land management agency;
7. A Tribal government or a consortium of Tribal governments; and
8. A multistate or multijurisdictional group of entities as described above in 1-7.

BIL AWARD Size/Cost Share

- **Planning Grants**

- No maximum or minimum award size
- \$20 million available for FY22

- **Bridge Project Grants**

- Total project costs cannot exceed \$100 million
- Minimum award of \$2.5 million
- Maximum award amount of up to 80% of total project costs

- **Large Bridge Project Grants**

- Total project costs of greater than \$100 million
- Minimum award of \$50 million
- Maximum award amount of up to 50% of total project costs

- **Maximum Federal Share**

- Cannot exceed Federal share for the project under 23 U.S.C. 120
- Cannot exceed 90% for off-system bridges

New Discretionary Grant: RECONNECTING COMMUNITIES PILOT PROGRAM

- **Planning Grants** | \$150 million over five years. Counties could apply directly to USDOT for planning funds to carry out feasibility studies on the impact of removing or mitigating physical infrastructure barriers, including within communities, to improve accessibility and facilitate economic development at an 80 percent federal share. Applications would be evaluated on criteria including the age of the facility, its impact on accessibility and its current role in meeting traffic demands.
- **Capital Construction Grants** | \$350 million over five years. USDOT would make awards to the owner of an eligible facility, including at-grade crossings, limited access highways, viaducts and other principal arterial facilities acting as a barrier. The facility owner could partner with a county to carry out eligible projects, including the removal, retrofit or mitigation of an eligible facility and the replacement of an existing facility with a new facility that restores connectivity.

| | |
|----------------------------|---|
| Purpose | Restore community connectivity by removing, retrofitting, or mitigating highways or other transportation facilities that create barriers to community connectivity, including to mobility, access, or economic development |
| Funding | \$1 B (FY 22-26), including— <ul style="list-style-type: none"> • \$500 M (FY 22-26) in Contract Authority from the HTF; and • \$500 M (FY 22-26) in advance appropriations from the GF |
| Eligible entities | <u>Planning grants:</u> <ul style="list-style-type: none"> • State • MPO • Local government • Tribal government • Nonprofit organization <u>Capital construction grants:</u> Owner of an eligible facility (may partner with any of the eligible entities for a planning grant) |
| Eligible activities | <ul style="list-style-type: none"> • Planning grants (≤\$2M) • Grants (≥\$5M) for capital construction projects, including the removal and replacement of eligible facilities |

Surface Transportation Reauthorization: Highways, Transit & Rail Programs

FY 2022 – FY 2026

Highlights for Counties:

ADDRESSES THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD)

- Allows counties to determine local roadway design. The MUTCD would be updated to remove the requirement that local roads must be built to state standards, allowing for counties and other local governments to use the FHWA-approved roadway design of their choice. The IJA would also create new standards to facilitate the rollout of EV charging stations.
- Requires USDOT to update the MUTCD. The required update would provide for the protection of vulnerable road users, testing and integrating automated vehicle technology, the installation of electronic traffic. It would also incorporate recommendations issued by the National Committee on Uniform Traffic Control Devices that have not yet been incorporated.
- Requires first update to provide for protection of vulnerable road users to the greatest extent possible, among other specified elements

CODIFIES THE RURAL OPPORTUNITIES TO USE TRANSPORTATION FOR ECONOMIC SUCCESS (ROUTES) COUNCIL

ROUTES, an initiative of the previous administration, seeks to address disparities in rural transportation. Under IJA, USDOT would be required to create an internal ROUTES Council tasked with providing technical assistance to rural areas for grant applications, researching and developing strategies to resolve rural transportation issues; and gathering information from stakeholders.

BIPARTISAN INFRASTRUCTURE LAW: RURAL PROGRAM SET-ASIDES

| Program | Mode | Rural Definition | Set-Aside | Rural Funding |
|---|------|---------------------|-----------|---------------------|
| RAISE | OST | Outside UA >200,000 | 50% | \$7.5 billion |
| INFRA | OST | Outside UA >200,000 | 25% | \$3.5 billion |
| CRISI | FRA | Outside UA >50,000 | 25% | \$2.5 billion |
| Rural Surface Transportation Grants (NEW) | OST | Outside UA >200,000 | 100% | \$2 billion |
| Ferry Service for Rural Communities (NEW) | FTA | Outside UA >50,000 | 100% | \$2 billion |
| Railroad Crossing Elimination Program (NEW) | FRA | Undefined | 20% | \$1.1 billion |
| PROTECT (NEW) | FHWA | Outside UA >200,000 | 25% | \$350 million |
| Bus & Bus Facility | FTA | Outside UA >50,000 | 15% | \$351 million |
| Wildlife Crossing Pilot Program (NEW) | FHWA | Undefined | 60% | \$350 million |
| SMART (NEW) | OST | Outside UA >50,000 | 30% | \$300 million |
| ATTIMD | FHWA | Undefined | 20% | \$60 million |
| Rural & Tribal Infrastructure Advancement (NEW) | OST | Outside UA >150,000 | 100% | \$10 million |
| Discretionary Total | | | | \$20 billion |



R.O.U.T.E.S.
RURAL OPPORTUNITIES TO USE TRANSPORTATION FOR
ECONOMIC SUCCESS



New Discretionary Program: Rural Surface Transportation Grants

\$2 BILLION OVER FIVE YEARS

A rural area would be defined as "an area outside an urbanized area with a population over 200,000." Eligible counties could apply directly to USDOT for these funds to carry out a wide variety of highway and bridge projects that increase connectivity, improve safety, and facilitate the movement of goods and people at a federal cost share of 80 percent. Counties could also bundle projects.

| | |
|-----------------------------|--|
| Purpose | Improve and expand the surface transportation infrastructure in rural areas to increase connectivity, improve the safety and reliability of the movement of people and freight, and generate regional economic growth and improve quality of life. |
| Funding | \$2 B (FY 22-26) in Contract Authority from the HTF |
| Eligible entities | <ul style="list-style-type: none">• State• Regional transportation planning organization (RTPO)• Local government• Tribal government |
| Eligible projects | <ul style="list-style-type: none">• Highway, bridge, or tunnel projects eligible under NHPP, STBG or the Tribal Transportation Program• Highway freight project eligible under NHFP• Highway safety improvement project• Project on a publicly-owned highway or bridge improving access to certain facilities that support the economy of a rural area• Integrated mobility management system, transportation demand management system, or on-demand mobility services |
| Other key provisions | <ul style="list-style-type: none">• Sets aside each FY: ≤10% for grants to small projects (<\$25M); 25% for designated routes of the ADHS; and 15% for projects in States with higher than average rural roadway lane departure fatalities |

New Discretionary Grant Program: Local and Regional Project Assistance Program

(Codifies the existing Rebuilding American Infrastructure with Sustainability and Equity (RAISE) program previously established through appropriations acts (and formerly known as TIGER and BUILD)

| | |
|--------------------------|--|
| Purpose | Projects with a significant local or regional impact that improve transportation infrastructure |
| Funding | \$7.5 B (FY 22-26) in advance appropriations from the GF |
| Eligible entities | <ul style="list-style-type: none">• State (and DC)• Territory• Local government• Public agency or publicly chartered authorities established by one or more States• Special purpose district or public authority with transportation function• Federally-recognized Indian Tribe• Transit agency |
| Eligible projects | <ul style="list-style-type: none">• Highway/bridge projects eligible under title 23• Public transportation projects• Passenger or freight rail projects• Port infrastructure investments• Surface transportation components of an airport• Projects for investment in surface transportation facilities on Tribal land• Projects to replace or rehabilitate a culvert or certain projects to prevent stormwater runoff• Any other surface transportation projects considered necessary to advance program goals |

Carbon Reduction Program (Formula)

Establishes a Carbon Reduction Program to reduce transportation emissions. Eligible projects include the construction, planning, and design of on-road and off-road trail facilities for pedestrians and bicyclists, advanced transportation and congestion management technologies, the deployment of infrastructure-based intelligent transportation systems capital improvements and the installation of vehicle to infrastructure communications equipment, and the development of a carbon reduction strategy, among others.

| | |
|-----------------------------|---|
| Purpose | Provide funding for projects to reduce transportation emissions or the development of carbon reduction strategies. |
| Funding | \$6.4 B (FY 22-26) in Contract Authority from the HTF |
| Recipients | <ul style="list-style-type: none">• States (including DC) |
| Distribution formula | <ul style="list-style-type: none">• Apportioned to States by formula• 65% of funds are suballocated (reserved for use in certain areas of the State, based on population) |
| Other key provisions | <ul style="list-style-type: none">• Requires State, in consultation with MPOs, to develop (and update at least every 4 years) a carbon reduction strategy and submit it to DOT for approval.• DOT must certify that a State's strategy meets the statutory requirements. |

BIPARTISAN INFRASTRUCTURE LAW: USDOT FORMULA PROGRAMS TO STATES

| CRP POPULATION BANDS | FY2022 |
|---|-----------------|
| Areas of 200,000 and above <i>(metropolitan planning organization [MPO] has obligation authority)</i> | \$457.7M |
| Areas between 49,999 and 200,000 <i>(metropolitan planning organization [MPO] has obligation authority)</i> | \$84.1M |
| Areas between 5,000 and 49,999 <i>(states must consult with RTP0)</i> | \$72.6M |
| Areas less than 5,000 <i>(states must consult with RTP0)</i> | \$187.5M |
| CRP FY 2022 TOTAL SUB-ALLOCATION BASED ON POPULATION | \$801.9M |

**FY 2022 CRP
funds available for
sub-allocation:
\$801.9 MILLION
+ obligation
authority at 50K**

*Eligible projects
are restricted
to those that reduce
transportation emissions*

BIPARTISAN INFRASTRUCTURE LAW: SAFE STREETS FOR ALL PROGRAM

PURPOSE

Provides local and tribal governments and MPOs with grants to support implementation of local safety initiatives that prevent death and serious injury on roads and streets

FUNDING + MATCH

OVER 5 YEARS

\$6 BILLION

IN FY 2022

\$1 BILLION

FED COST SHARE

80 PERCENT

ELIGIBLE ACTIVITIES

- Develop or update a Comprehensive Safety Action Plan*
- Conduct planning, design, and development activities in support of an Action Plan*
- Carry out projects and strategies identified in an Action Plan*

STATES NOT ELIGIBLE FOR THIS PROGRAM; ONLY LOCAL GOVERNMENTS AND MPO'S

New Discretionary Program: Safe Streets and Roads for All

| | |
|-----------------------------|--|
| Purpose | Support local initiatives to prevent transportation-related death and serious injury on roads and streets (commonly referred to as “Vision Zero” or “Toward Zero Deaths” initiatives). |
| Funding | \$5.0B (FY 22-26) in advance appropriations from the GF |
| Eligible entities | <ul style="list-style-type: none">• MPO• Political subdivision of a State (e.g., local governments)• Tribal government |
| Eligible projects | <ul style="list-style-type: none">• Comprehensive safety action plan (planning grant)• Planning, design, and development activities for infrastructure projects and other strategies identified in a comprehensive safety action plan |
| Other key provisions | <ul style="list-style-type: none">• Sets aside not less than 40% of total funding each FY for planning grants.• Requires considering, among other factors, the likelihood of a project significantly reducing or eliminating fatalities and serious injuries involving various road users, including pedestrians, bicyclists, public transportation users, motorists, and commercial operators. |

SURFACE TRANSPORTATION REAUTHORIZATION

EXPEDITES EVALUATIONS FOR PROJECTS WITHIN AN OPERATIONAL RIGHT-OF-WAY

- Federal agencies would be required to provide, at minimum, a preliminary review of applications for projects within an operational right-of-way within 45 days of submission. Other deadlines would also be created, and federal agencies not meeting a prescribed timeline would be subject to reporting requirements.

INCREASES COST THRESHOLDS ELIGIBLE FOR CATEGORICAL EXCLUSIONS

- Small projects, the threshold would increase from \$5 million to \$6 million
- Large projects, it would increase from \$30 million to \$35 million, thereby making more projects eligible.

ESTABLISHES A NEW CULVERT REMOVAL, REPLACEMENT AND RESTORATION GRANT PROGRAM

- Counties could apply directly to USDOT for a new competitive grant program to carry out eligible projects that replace, remove or repair culverts that would improve or restore fish passage for certain fish, with a priority given those species who are endangered or at risk of becoming endangered, or projects that address fresh-water runoff that impact certain marine life.
- USDOT would be required to provide technical assistance to underserved communities. The section would authorize \$800 million annually, with a federal share of no more than 80 percent.

New Discretionary Program: Wildlife Crossings Pilot Program

| | |
|----------------------|---|
| Purpose | Support projects that seek to reduce the number of wildlife-vehicle collisions, and in carrying out that purpose, improve habitat connectivity |
| Funding | <ul style="list-style-type: none"> • \$350 M (FY 22-26) in Contract Authority from the HTF |
| Eligible entities | <ul style="list-style-type: none"> • State highway agency (or equivalent) • MPO • Local government • Regional transportation authority • Special purpose district or public authority with a transportation function • Indian Tribe • Federal land management agency |
| Eligible projects | <ul style="list-style-type: none"> • Projects to reduce wildlife-vehicle collisions |
| Other key provisions | <ul style="list-style-type: none"> • Sets aside not less than 60% of grant funds for projects in rural areas • Provision related to pilot program requires: <ul style="list-style-type: none"> ○ study of methods to reduce wildlife-vehicle collisions; ○ workforce development and technical training courses with; ○ standardized methodology for collecting and reporting spatially accurate wildlife collision and carcass data for the NHS; and ○ guidance on evaluating highways for potential mitigation measures to reduce wildlife-vehicle collisions and increase habitat connectivity. |

New Discretionary Program: PROTECT Grants

| | |
|-----------------------------|---|
| Purpose | Planning, resilience improvements, community resilience and evacuation routes, and at-risk coastal infrastructure |
| Funding | \$1.4 B (FY 22-26) in Contract Authority from the HTF |
| Eligible entities | <ul style="list-style-type: none"> • State (or political subdivision of a State) • MPO • Local government • Special purpose district or public authority with a transportation function • Indian Tribe • Federal land management agency (applying jointly with State(s)) • <i>Different eligibilities apply for at-risk coastal infrastructure grants</i> |
| Eligible projects | <ul style="list-style-type: none"> • Highway, transit, intercity passenger rail, and port facilities • Resilience planning activities, including resilience improvement plans, evacuation planning and preparation, and capacity-building • Construction activities (oriented toward resilience) • Construction of (or improvement to) evacuation routes |
| Other key provisions | <ul style="list-style-type: none"> • Higher Federal share if the eligible entity develops a resilience improvement plan (or is in a State or area served by MPO that does) and the State or MPO incorporates it into its long-range transportation plan • May only use up to 40% of the grant for construction of new capacity |

New Discretionary Program: Charging and Fueling Infrastructure

| | |
|-----------------------------|---|
| Purpose | Deploy electric vehicle (EV) charging and hydrogen/propane/natural gas fueling infrastructure along designated alternative fuel corridors and in communities |
| Funding | \$2.5 B (FY 22-26) in Contract Authority from the HTF |
| Eligible entities | <ul style="list-style-type: none"> • State or political subdivision of a State • MPO • Local government • Special purpose district or public authority with a transportation function • Indian Tribe • Territory |
| Eligible projects | <ul style="list-style-type: none"> • Acquisition and installation of publicly accessible EV charging or alternative fueling infrastructure • Operating assistance (for the first 5 years after installation) • Acquisition and installation of traffic control devices |
| Other key provisions | <ul style="list-style-type: none"> • Requirement to redesignate alternative fuel corridors and establish a process to regularly redesignate these corridors • Set-aside (50%) to install EV charging and alternative fueling infrastructure on public roads or in other publicly accessible locations, such as parking facilities at public buildings, schools, and parks |

Other IJA Provisions/Programs

Congestion Relief Program

Establishes a Congestion Relief Program to provide competitive grants to States, local governments, and MPOs for projects in large urbanized areas to advance innovative, integrated, and multimodal solutions to congestion relief in the most congested metropolitan areas.

| | |
|--------------------------|---|
| Purpose | Advance innovative, integrated, and multimodal solutions to reduce congestion and the related economic and environmental costs in the most congested metropolitan areas with an urbanized area population of 1M+. |
| Funding | \$250 M (FY 22-26) in Contract Authority from the HTF |
| Eligible entities | <ul style="list-style-type: none">• State• MPO• City or municipality |
| Eligible projects | <ul style="list-style-type: none">• Planning, design, implementation, and construction activities to achieve the program goals, including:<ul style="list-style-type: none">○ deployment and operation of integrated congestion management systems, systems that implement or enforce HOV toll lanes or pricing strategies, or mobility services; and○ incentive programs that encourage carpooling, nonhighway travel during peak periods, or travel during nonpeak periods.• Subject to certain requirements and approval by the Secretary, provides for tolling on the Interstate System as part of a project carried out with a grant under the program |

SURFACE TRANSPORTATION REAUTHORIZATION

Streamlining

- Codification of One Federal Decision – Creates new environmental review procedures and requirements for major projects. Under the bill, DOT is required to develop a schedule consistent with an agency average of two years to complete an EIS and requires accountability to the public when milestones are missed. Environmental documents under this section are limited to 200 pages unless a review is of unusual scope and complexity. The Secretary of DOT is directed to work with relevant Federal agencies to adopt appropriate categorical exclusions to facilitate project delivery.
- Efficient Implementation of NEPA for Federal Lands Management Projects – Allows for a Federal land management agency to more efficiently satisfy NEPA obligations by relying upon an environmental document previously prepared by FHWA. The bill allows for a Federal Land Management Agency to use the CEs promulgated in the implementing regulations of the FHWA if the use of the CE would not otherwise conflict with the implementing regulations of the project sponsor.
- Surface Transportation Project Delivery Program Written Agreements – Extends the time period for a State to have an agreement to assume the responsibilities under NEPA, from a term of not more than 5 years, to allow for any State that has participated in a program under this section for at least 10 years, to have a term of 10 years.
- Developing a two-year timeline for completing environmental reviews on major projects—defined as a project requiring multiple reviews, permits or studies
- Issuing any related authorizations no later than 90 days following a record of decision issuance
- Limiting reviews to 200 pages
- Requiring federal agencies to identify existing categorical exclusions that, if also applied by another agency, would have the potential to expedite project delivery

BIPARTISAN INFRASTRUCTURE LAW: PROPOSED CHANGES TO THE DAVIS-BACON ACT

KEY HIGHLIGHTS

- **Proposes redefining “prevailing wage” (PW) to the pre-1983 criteria and poses challenges for small projects in obtaining bids from contractors**
- **Does not raise the \$2,000 threshold, nor does it index it to the CPI**
- **Expands “site of work” definition to include off-site construction of “significant portions” of a project**
- **Off-site transportation would become regulated, including between secondary sites and the primary, between dedicated support sites and primary or secondary sites and onsite activities related to offsite transportation**

BIPARTISAN INFRASTRUCTURE LAW: NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

KEY HIGHLIGHTS

- On April 21, the White House Council on Environmental Quality published a Phase I final rule amending NEPA to restore components removed in 2020
- **Effective May 20**, the Phase I rule will do the following:
 - Restore authority for agencies analyze alternative approaches to projects when conducting an EIS and removing reference to goals of the applicant
 - Provides agencies the authority to develop more stringent NEPA procedures beyond what is federally required and removed “ceiling provisions”
 - Broadens the definition of “effects” to include direct and indirect effects and cumulative impacts, including climate change
- NEPA will be further amended by CEQ Phase II rulemaking in the coming months

BIPARTISAN INFRASTRUCTURE LAW: FUTURE NOTICES OF FUNDING



May 2022

- Transit-Oriented Development Pilot Program
- University Transportation Centers Program
- Natural Gas Distribution Infrastructure Safety and Modernization Program
- Safe Streets and Roads for All Grant Program
- Nationally Significant Federal Lands and Tribal Project Program
- Bridge Investment Program

June 2022

- Railroad Crossing Elimination Program
- Ferry Programs: Electric or Low Emitting Ferry Program
- Ferry Service for Rural Communities Program
- Passenger Ferry Grant Program
- Reconnecting Communities Pilot Program

July 2022

- All Stations Accessibility Program
- Rail Vehicle Replacement Program

Summer – Fall 2022

- National Culvert Removal, Replacement, and Restoration Grant Program
- Consolidated Rail Infrastructure & Safety Improvements Grant Program
- Strengthening Mobility and Revolutionizing Transportation (SMART) Grant Program

Surface Transportation Reauthorization: Highways, Transit & Rail Programs

National Motor Vehicle Per-Mile User Fee Pilot

Directs the Secretary of DOT, in coordination with the Secretary of the Treasury, to establish a pilot program to demonstrate a national motor vehicle per-mile user fee. In carrying out the pilot program, the Secretary, in coordination with the Secretary of the Treasury, shall provide different methods that volunteer participants can choose from to track motor vehicle miles traveled, solicit volunteer participants from all 50 States, the District of Columbia, and the Commonwealth of Puerto Rico, ensure an equitable geographic distribution by population among volunteer participants, and include commercial vehicles and passenger motor vehicles. For the purposes of the pilot program, the Secretary of the Treasury shall establish, on an annual basis, per-mile user fees for passenger motor vehicles, light trucks, and medium- and heavy-duty trucks, which amount may vary between vehicle types and weight classes to reflect estimated impacts on infrastructure, safety, congestion, the environment, or other related social impacts.

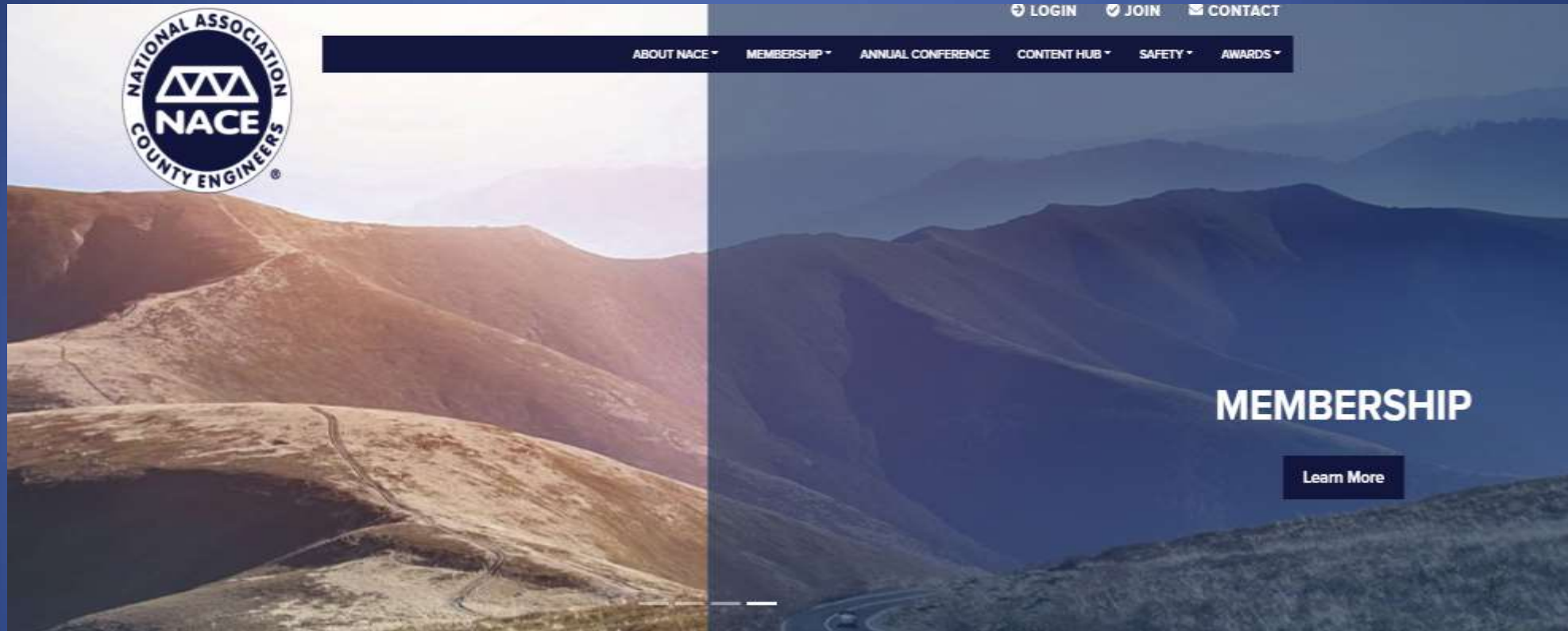
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