National Association of County Engineers

“The Voice of County Road Officials”
Local Agency Bridge Innovation and Demo Days
June 14, 2022
NACE Legislative Priorities

• Permit and Approval Process Streamlining
• Increased Federal Funding for Locals
• More Opportunities for Direct Funding
• Surface Transportation Reauthorization
• Infrastructure Spending Bill
• Safety
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
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

<table>
<thead>
<tr>
<th>Program Examples</th>
<th>State</th>
<th>MPO</th>
<th>Local</th>
<th>Tribe</th>
<th>PA*</th>
<th>Territory</th>
<th>FLMA*</th>
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<td>Reconnecting Communities Pilot Program</td>
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<tr>
<td>Rural Surface Transportation Grants</td>
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<td>Local and Regional Project Assistance</td>
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<td>✓</td>
<td>✓</td>
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</tbody>
</table>

Source: USDOT
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.
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

Source: NACo
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.

Table: Changes to NHPP

<table>
<thead>
<tr>
<th>Topic</th>
<th>Changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Program purpose</td>
<td>Adds as an additional program purpose:</td>
</tr>
<tr>
<td></td>
<td>• 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</td>
</tr>
<tr>
<td>Eligible projects</td>
<td>Adds new eligible projects:</td>
</tr>
<tr>
<td></td>
<td>• undergrounding public utility infrastructure carried out in conjunction with an otherwise eligible project</td>
</tr>
<tr>
<td></td>
<td>• resiliency improvements (including protective features) on the NHS</td>
</tr>
<tr>
<td></td>
<td>• activities to protect NHS segments from cybersecurity threats.</td>
</tr>
<tr>
<td></td>
<td>• 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 (≤15% of NHPP funds)</td>
</tr>
<tr>
<td>Asset management plans</td>
<td>• Requires consideration of extreme weather and resilience in lifecycle cost and risk management analyses</td>
</tr>
</tbody>
</table>

Table Source: USDOT
Surface Transportation Reauthorization: Highways, Transit & Rail Programs
FY 2022 – FY 2026
Highlights for Counties:

CREATE 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.

Courtesy: NACo
BIPARTISAN INFRASTRUCTURE LAW:
BRIDGE FORMULA PROGRAM

<table>
<thead>
<tr>
<th>BFP in FY22</th>
<th>Bridges</th>
<th>$4.51 BILLION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Off-System</td>
<td>Bridges</td>
<td>$796 MILLION</td>
</tr>
<tr>
<td>FY22 TOTAL</td>
<td></td>
<td>$5.3 BILLION</td>
</tr>
</tbody>
</table>

- $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

Source: NACo
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
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.

Source: USDOT
# Eligible Project Costs

<table>
<thead>
<tr>
<th>Planning</th>
<th>Bridge Projects and Large Bridge Projects (23 U.S.C. 124 (h) &amp; 124 (i))</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Planning,</td>
<td>1. Development phase activities, including planning, feasibility analyses, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities</td>
</tr>
<tr>
<td>2. Feasibility analyses, and</td>
<td>2. Construction, which includes replacement and preservation, reconstruction, rehabilitation, acquisition of real property (including land related to the project and improvements to the land), environmental mitigation, construction contingencies, acquisition of equipment, and operational improvements directly related to improving system performance</td>
</tr>
<tr>
<td>3. Revenue forecasting.</td>
<td>3. Expenses related to the protection as described in 23 U.S.C. 133(b)(10) of a bridge, including seismic or scour protection</td>
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<tr>
<td></td>
<td>4. On the request of an eligible entity carrying out an eligible project, amounts awarded to the entity to pay subsidy and administrative costs necessary to provide to the entity Federal credit assistance under 23 U.S.C. chapter 6</td>
</tr>
</tbody>
</table>

Source: USDOT
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

Source: USDOT
# BIPARTISAN INFRASTRUCTURE LAW: RURAL PROGRAM SET-ASIDES

<table>
<thead>
<tr>
<th>Program</th>
<th>Mode</th>
<th>Rural Definition</th>
<th>Set-Aside</th>
<th>Rural Funding</th>
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<tbody>
<tr>
<td>RAISE</td>
<td>OST</td>
<td>Outside UA &gt;200,000</td>
<td>50%</td>
<td>$7.5 billion</td>
</tr>
<tr>
<td>INFRA</td>
<td>OST</td>
<td>Outside UA &gt;200,000</td>
<td>25%</td>
<td>$3.5 billion</td>
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<tr>
<td>CRISI</td>
<td>FRA</td>
<td>Outside UA &gt;50,000</td>
<td>25%</td>
<td>$2.5 billion</td>
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<tr>
<td>Rural Surface Transportation Grants (NEW)</td>
<td>OST</td>
<td>Outside UA &gt;200,000</td>
<td>100%</td>
<td>$2 billion</td>
</tr>
<tr>
<td>Ferry Service for Rural Communities (NEW)</td>
<td>FTA</td>
<td>Outside UA &gt;50,000</td>
<td>100%</td>
<td>$2 billion</td>
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<td>Railroad Crossing Elimination Program (NEW)</td>
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<td>20%</td>
<td>$1.1 billion</td>
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<tr>
<td>PROTECT (NEW)</td>
<td>FHWA</td>
<td>Outside UA &gt;200,000</td>
<td>25%</td>
<td>$350 million</td>
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<tr>
<td>Bus &amp; Bus Facility</td>
<td>FTA</td>
<td>Outside UA &gt;50,000</td>
<td>15%</td>
<td>$351 million</td>
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<td>Wildlife Crossing Pilot Program (NEW)</td>
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<td>Undefined</td>
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<td>SMART (NEW)</td>
<td>OST</td>
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<td>ATTIMD</td>
<td>FHWA</td>
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<td>$60 million</td>
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<td>Rural &amp; Tribal Infrastructure Advancement (NEW)</td>
<td>OST</td>
<td>Outside UA &gt;150,000</td>
<td>100%</td>
<td>$10 million</td>
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</table>

**Discretionary Total** $20 billion
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.

<table>
<thead>
<tr>
<th>Purpose</th>
<th>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.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Funding</td>
<td>$2 B (FY 22-26) in Contract Authority from the HTF</td>
</tr>
</tbody>
</table>
| Eligible entities | • State  
• Regional transportation planning organization (RTPO)  
• Local government  
• Tribal government |
| Eligible projects | • 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 | • 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 |

Courtesy: NACo, USDOT
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.
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
Brand New Website!
THANK YOU!

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