NATIONAL ASSOCIATION of COUNTIES

# LEGISLATIVE ANALYSIS FOR COUNTIES

## THE INFRASTRUCTURE INVESTMENT & JOBS ACT

Nov. 7, 2021

# OVERVIEW

**On November 15, President Biden signed the *Infrastructure Investment and Jobs Act* <http://bit.ly/3xhMFH3> (IIJA),** enacting the legislation into law following a vote in the U.S. House of Representatives, where the bipartisan infrastructure package passed 228-206 earlier this month. These final steps follow the August 10 U.S. Senate passage of the bill in a strongly bipartisan 69-30 vote.

The bipartisan infrastructure legislation provides $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. In addition to providing authorizations for a wide variety of programs, the IIJA also makes supplemental, advance appropriations to several federal agencies:

- U.S. Department of Agriculture
- U.S. Department of Commerce
- U.S. Department of Energy
- U.S. Department of Homeland Security
- U.S. Department of the Interior
- U.S. Environmental Protection Agency
- U.S. Department of Health and Human Services
- U.S. Department of Transportation

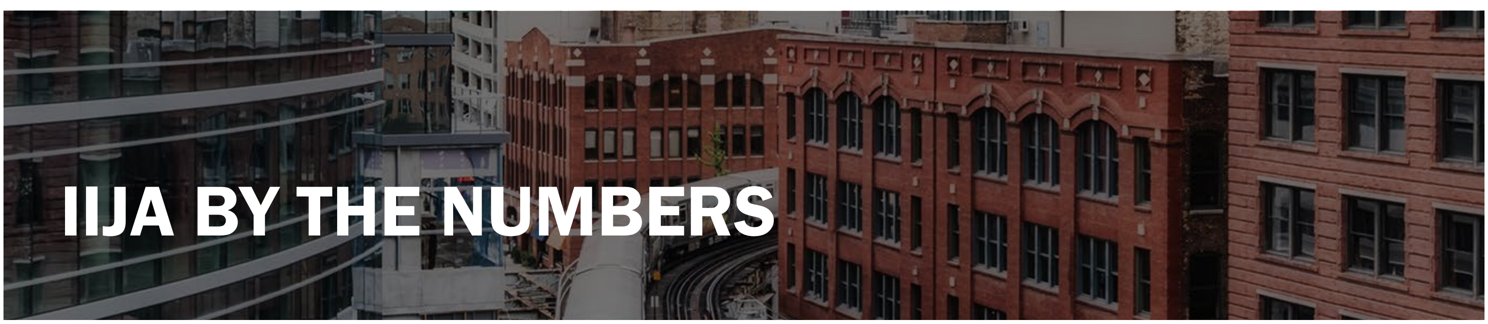
**Counties play a major role <https://www.naco.org/blog/april-county-explorer-update-county-role-infrastructure> in America's transportation and infrastructure network**, owning and operating 44 percent of public roads and 38 percent of bridges -- more than any other level of government. Simultaneously, counties directly support 78 percent of public transit systems and 34 percent of airports that keep our residents connected in every corner of the country. Each year, counties invest $134 billion in the construction of infrastructure and the maintenance and operation of public works.

> ***"Counties applaud the U.S. House and Senate for this much-needed, bipartisan infrastructure bill,"*** *said Matthew Chase, NACo Executive Director.* ***"We appreciate our House and Senate partners who worked with us to develop this comprehensive legislation. It will help rebuild our nation's infrastructure and economy by investing in locally owned infrastructure and preserving local decision-making."***

## JUMP TO SECTION



**View NACo's full press statement on passage of the IIJA here <https://www.naco.org/resources/press/bipartisan-infrastructure-bill-passage-major-victory-americas-counties> .**



# IIJA BY THE NUMBERS

The $550 billion in new investments is broken down as follows:

- **Transportation**: $284 billion (U.S. Department of Transportation)
- **Water**: $55 billion (U.S. Environmental Protection Agency)
- **Broadband**: $65 billion (U.S. Department of Commerce)
- **Energy & Power**: $73 billion (U.S. Department of Energy)
- **Environmental remediation**: $21 billion (U.S. Environmental Protection Agency)
- **Western water infrastructure**: $8.3 billion (U.S. Department of the Interior; U.S. Department of Agriculture - U.S. Forest Service)
- **Resiliency**: $46 billion (U.S. Department of Homeland Security)

The IIJA directs $284 billion (52 percent) of the $550 billion in new investments toward modernizing and making improvements across all modes of transportation, with the majority of funding reserved for highways, roads and bridges:

- **Roads & Bridges**: $110 billion
- **Transit**: $39 billion
- **Rail**: $66 billion
- **Safety**: $11 billion
- **Airports**: $25 billion
- **Ports & Waterways**: $17 billion
- **Electric vehicle chargers**: $7.5 billion
- **Electric buses**: $7.5 billion
- **Reconnecting Communities**: $1 billion

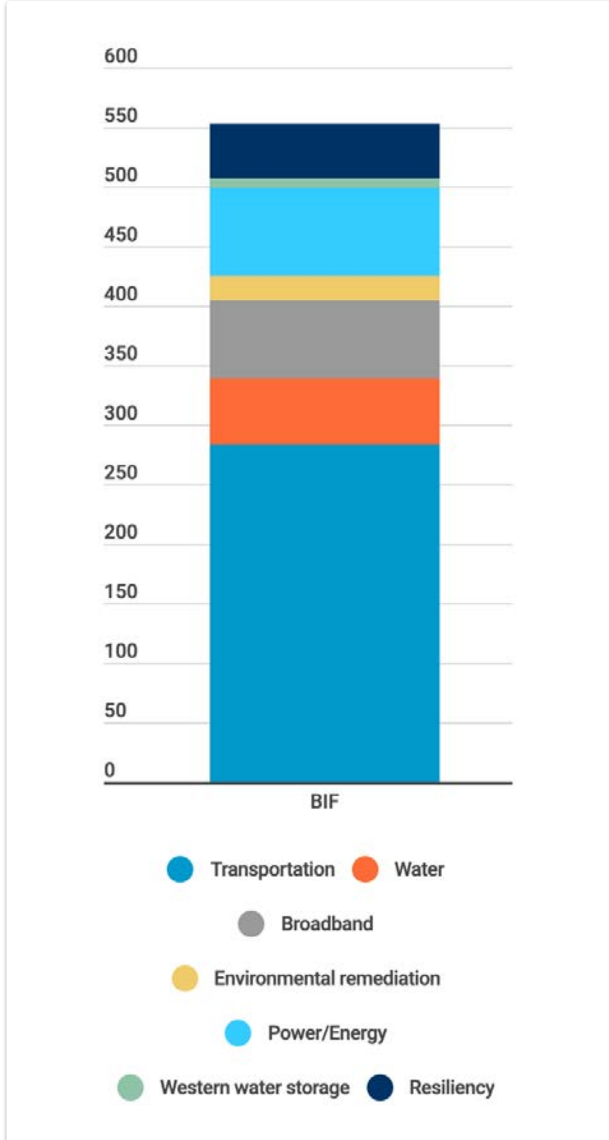
View Chart <https://infogram.com/bif-by-the-numbers-1h7j4dv00omv94n?live>

## COUNTY ACCESS TO TRANSPORTATION FUNDS

Counties can access the legislation's transportation funds, which account for over half of its new investments, through three general ways:

1. **Competitively**, through federal grant programs, such as RAISE and INFRA, and competitive processes run by state departments of transportation/Metropolitan Planning Organizations, like Transportation Alternatives funding
2. **Suballocations based on population** from state departments of transportation, such as the Surface Transportation Block Grant Program
3. **Federal formulas**, like transit formulas and the formula component of the Airport Improvement Program

**IIJA BY THE NUMBERS ($ BILLIONS)**

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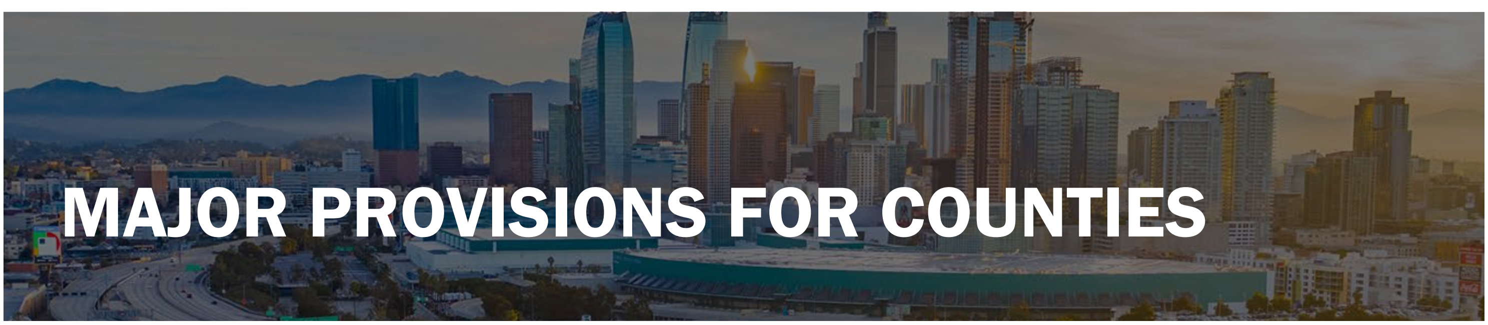
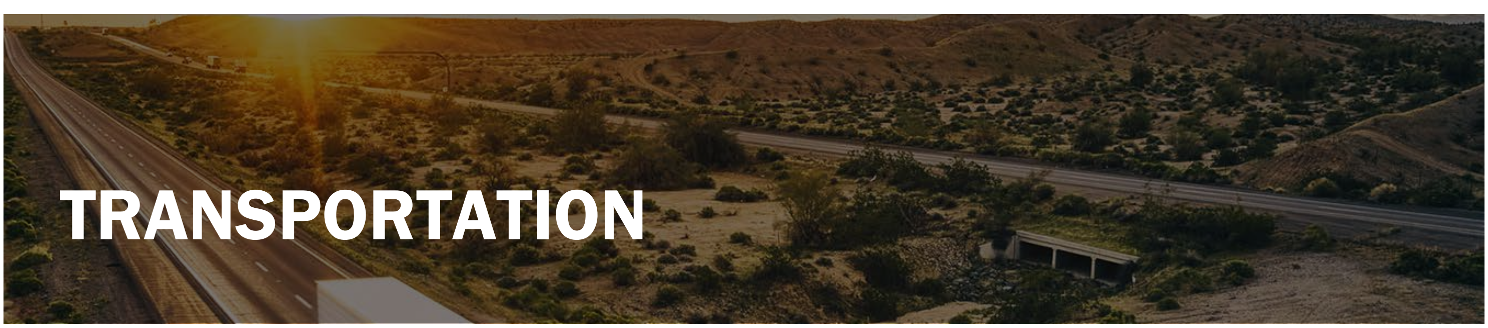



- Establishes a new, long-term surface transportation reauthorization
- Raises the off-system bridge set-aside <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwiZzI6u3pXyAhWfFFkFHdIfCGIQFnoECAMQAQ&url=https%3A%2F%2Fwww.naco.org%2Fsites%2Fdefault%2Ffiles%2Fdocuments%2FBridge%2520Profile_National_

05.15.19.pdf&usg=AOvVaw1VT2nerL2-olIKyog9u3qg> by five percent, resulting in a $330 million increase to $1.035 billion annually

- Extends the Secure Rural Schools <https://ce.naco.org/index.html?dset=Secure%20Rural%20Schools%20(SRS)&ind=SRS%20Profiles> program for three years
- Significantly increases the number of competitive grant opportunities <https://naco.sharefile.com/home/shared/fo797ba2-de5b-477e-b7b0-07230f18ab4f> via supplemental appropriations to the U.S. Department of Transportation
- Increases the cap on Private Activity Bonds from $15 billion to $30 billion
- Authorizes $14.65 billion for the Environmental Protection Agency's Drinking Water State Revolving Fund and the Clean Water State Revolving Fund over five years
- Provides $1 billion for the Federal Emergency Management Agency (FEMA) Building Resilient Infrastructure and Communities (BRIC) program <https://www.naco.org/blog/fema-announces-116-billion-fy-2021-hazard-mitigation-assistance-grants>
- Fully funds the *Safeguarding Tomorrow through Ongoing Risk Mitigation (STORM) Act* <https://www.govinfo.gov/content/pkg/BILLS-116s3418enr/pdf/BILLS-116s3418enr.pdf> , which will allow state and local governments to utilize low interest loans for pre-disaster mitigation activities
- Creates a new population band within the Surface Transportation Block Grant for communities between 50,000 and 200,000 to allow for a more equitable distribution of funds
- Establishes a new competitive grant program for local governments to address and eliminate at-grade rail crossings <https://www.naco.org/blog/transportation-reauthorization-should-bolster-grade-crossing-options>
- Creates a new, $40 billion Bridge Investment Program that off-system bridges will be eligible for to repair, replace and rehabilitate the nation's bridges
- Significantly expands Buy America requirements <https://www.govinfo.gov/content/pkg/CFR-2019-title49-vol7/xml/CFR-2019-title49-vol7-part661.xml> for covered infrastructure materials
- Codifies elements of the Trump Administration's "One Federal Decision <https://www.transportation.gov/sites/dot.gov/files/docs/policy-initiatives/320421/eo-13807.pdf> " that will 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 <http://naco.sharefile.com/home/shared/fo797ba2-de5b-477e-b7b0-07230f18ab4f> , thereby making more projects eligible for streamlining
- Fails to address the solvency of the Highway Trust Fund <https://www.cbo.gov/system/files/2021-07/51300-2021-07-highwaytrustfund.pdf> , requiring a $118 billion bailout from the general fund of the U.S. Treasury to fund highway and transit programs
- 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 State and Local Cybersecurity grant program



# TRANSPORTATION

# Funding for the U.S. Department of Transportation (USDOT)

Over five years, the IIJA will provide a total of $567.47 billion in Highway Trust Fund contract authority and federal appropriations for federal transportation programs through USDOT.

## ***Surface Transportation Reauthorization:*** *Highways, Transit & Rail Programs | FY 2022 – FY 2026*

The IIJA uses S. 1931, the *Surface Transportation Reauthorization Act*, and S. 2016, the *Surface Transportation Investment Act*, as the foundation for its highway, road, bridge and rail provisions. The primary difference between S. 1931 and S. 2016 and the IIJA are the funding levels, many of which have been increased in the IIJA by its authorization of supplemental appropriations.

This new, five-year $477 billion reauthorization replaces the previous surface transportation law, *the Fixing America's Surface Transportation Act* (FAST Act/P.L. 114-94)., that governed highway, transit and rail programs through an initial five-year authorization from FY 2016 through FY 2020, in addition to three short-term extensions through the enactment of the IIJA in FY 2022. Surface transportation funding in the IIJA represents a 56.4 percent increase over the FAST Act ($305 billion).

> ***View NACo's comprehensive analysis of the Senate's highway and rail reauthorization package here <https://www.naco.org/resources/legislative-analysis-us-senate-surface-transportation-reauthorization-s-1931-surface> .***

**Please note, the program totals reflected below represent authorized totals over five years. Expand program details to see programs that will be increased by supplemental appropriations.**

# Highways, Roads & Bridges

## AUTHORIZES HIGHWAY TRUST FUND (HTF) CONTRACT AUTHORITY FOR HIGHWAYS, ROADS AND BRIDGES FOR FY 2022 THROUGH FY 2026

### $273.15 BILLION OVER FIVE YEARS

***31.8% increase over FAST Act***

Contract authority is authorized at the following levels over five fiscal years:

- **FY 2022:** $52.49 billion
- **FY 2023:** $53.54 billion
- **FY 2024:** $54.61 billion
- **FY 2025:** $55.70 billion
- **FY 2026:** $56.81 billion

Funds will be apportioned to states through nine federal-aid highway formula programs, including two new programs:

| PROGRAM | 5-YEAR TOTAL | CHANGE FROM FAST ACT |
|---|---|---|
| Carbon Reduction Program – **NEW** | $6.41 billion | N/A |
| Congestion Mitigation and Air Quality Improvement Program | $13.2 billion | 9.8% increase |
| Highway Safety Improvement Program | $15.56 billion | 34.3% increase |
| Metropolitan Planning | $2.28 billion | 32.7% increase |
| National Highway Freight Program | $7.15 billion | 14.5% increase |
| National Highway Performance Program | $148 billion | 27% increase |
| Promoting Resilient Operations for Transformative, Efficient and Cost Saving Transportation (PROTECT) Program – **NEW** | $7.30 billion | N/A |
| Railway-Highway Crossing Program | $1.23 billion | 4.7% increase |
| Surface Transportation Block Grant Program | $72 billion (before TAP) | 15.2% increase |

> ***View state-by-state apportionment tables for formula programs here <https://www.epw.senate.gov/public/_cache/files/7/6/76a75cd2-8e70-42c4-8142-82ffef83c867/29CF2A3E5A597BF34CD020F96F197F4A.ta-est-fy-2022-2026-apportionments-epw-reauth-act-2021-rev-1.pdf> .***
>
> ***View an authorization table here <https://www.epw.senate.gov/public/_cache/files/c/1/c164e182-460f-4391-af72-9ca998416fad/D03CBDE58574EF01AC5EEA34FB00A78B.ta-authorization-table-epw-reauth-act-2021-rev-1.pdf> .***

## MAKES CHANGES TO THE SURFACE TRANSPORTATION BLOCK GRANT (STBG)

### $72 BILLION OVER FIVE YEARS

***15.2% increase over FAST Act***

- **Increases the off-system bridge set-aside | $5.18 billion over five years**
  The set-aside has increased from 15 percent to 20 percent of a state's FY 2009 share of the no-longer-existent Highway Bridge Program, resulting in an increase of $258 million annually from current law. Low-water crossings are now eligible.
- **Establishes a fourth population band for sub-allocations.** A fourth population band for communities between 50,000 and 200,000 has been established, ensuring greater equity within the program for communities of different sizes.
- **Creates new eligibilities.** New projects are now eligible for STBG funds, including the:

**Off-system bridges <https://ce.naco.org/?dset=Bridges&ind=Total%20Off-System%20Bridges> make up nearly half of the nation's bridges**. Due to their location off the National Highway System, they often suffer from federal and state underinvestment. Counties own **62 percent** of these structures and depend on our intergovernmental partners to support our efforts to ensure the safety and efficiency of these critical local connections.

  - Installation of electric vehicle (EV) charging infrastructure
  - Installation of measures to protect a transportation facility from cyber threats
  - Projects to increase tourism
  - Wildlife collisions mitigation
  - Resiliency improvements

- **Increases threshold for the STBG Special Rule.** The population threshold for eligibility under the STBG Special Rule has increased from 5,000 to 50,000 and rural minor collectors on rural roads and critical rural freight corridors are now eligible under the rule.

- **Increases funding for the Transportation Alternatives Program (TAP) | $7.2 billion over five years**
  Funding for TAP has increased significantly by becoming 10 percent of the entire STBGP, before other set-asides. The percentage states are required to sub-allocate to local governments based on population also increases from 50 to 59 percent, and an option is available for states to sub-allocate up to 100 percent.

Counties can use **TAP funds** to carry out eligible projects that include planning, design and construction of trails, environmental mitigation activities to address stormwater management, and the construction of overlooks, among others, approved uses.

## SIGNIFICANTLY INCREASES THE CAP ON STATE INCENTIVE PAYMENTS TO LOCAL GOVERNMENTS TO ADDRESS AT-GRADE CROSSINGS

The cap established by the Section 130 program <https://safety.fhwa.dot.gov/hsip/xings/> has increased from $7,500 to $100,000. The federal cost share has also increased to 100 percent for projects eliminating at-grade rail-highway crossings.

## INCREASES FUNDING FOR THE NATIONALLY SIGNIFICANT FREIGHT AND HIGHWAY PROJECTS (INFRA) GRANT PROGRAM

$10.9 BILLION OVER FIVE YEARS

***142% increase over FAST Act***

Counties can apply directly to USDOT for INFRA grants, which are awarded on a competitive basis, to carry out a variety of eligible projects, including for:

- Highway freight project on the National Highway Freight Network
- Highway or bridge project, including to add capacity for improve mobility
- Intermodal or freight projects
- Rail-highway grade crossing separation

Additionally, to be eligible for INFRA grants, a project must reasonably be expected to have costs that equal or exceed:

- $100 million; or
- for a project located in a single state, 30 percent of the state's federal-aid highway apportionment for the most recently completed FY OR for projects located in multiple states, 50 percent of the federal-aid highway apportionment of the state with the largest apportionment for the most recently completed FY.

Thirty percent of the funds are reserved for small projects in rural areas, and the federal share for those projects has increased from 60 to 80 percent.

### TOTAL FUNDING OVER FIVE YEARS

| AUTHORIZED FROM HTF | ADDITIONALLY AUTHORIZED FROM GF | APPROPRIATED | PROGRAM TOTAL (SUBJECT TO APPROPRIATIONS) |
|---|---|---|---|
| $4.8 billion | $6.01 billion | $3.2 billion | $14.01 billion |

## CREATES NEW BRIDGE INVESTMENT PROGRAM (BIP)

$40 BILLION OVER FIVE YEARS ($12.51 BILLION COMPETITIVE)

Counties can apply directly to USDOT for the competitive portion of the BIP to carry out small and large bridge projects. Eligible projects are defined as those meeting the following goals, including:

> Counties own **38 percent** of the National Bridge Inventory <https://www.naco.org/sites/default/files/documents/Bridge%20Profile_National_05.15.19.pdf> , more than any other level of government.

- 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 is 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 are eligible.

While states will receive the BIP formula funds, the bill will create a 15 percent set-aside within the program to address off-system bridges, much like STBG.

#### TOTAL FUNDING OVER FIVE YEARS

| AUTHORIZED FROM HTF | ADDITIONALLY AUTHORIZED FROM GF | APPROPRIATED | PROGRAM TOTAL (SUBJECT TO APPROPRIATIONS) |
|---|---|---|---|
| $3.27 billion | $3.27 billion | $36.74 billion | $43.27 billion |

## CREATES NEW RECONNECTING COMMUNITIES PILOT PROGRAM

$500 MILLION OVER FIVE YEARS

- **Planning Grants | $150 million over five years**. Counties can 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 will 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 will 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.

#### TOTAL FUNDING OVER FIVE YEARS

| AUTHORIZED FROM HTF | APPROPRIATED | PROGRAM TOTAL (SUBJECT TO APPROPRIATIONS) |
| --- | --- | --- |
| $500 million | $500 million | $1 billion |

## ESTABLISHES A NEW WILDLIFE CROSSINGS PILOT PROGRAM

$350 MILLION OVER FIVE YEARS

Counties can apply directly to USDOT for this new competitive grant program to carry out eligible projects that reduce collisions and/or improve habitat connectivity.

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

ROUTES <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwiYyZekmqfxAhW3MIkFHUGcBkEQFjAAegQIChAD&url=https%3A%2F%2Fwww.transportation.gov%2Frural&usg=AOvVaw3fnpe_E1zuI_vJD8ekdrc9> , an initiative of the previous administration, seeks to address disparities in rural transportation. Under IIJA, USDOT is 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.

## ADDRESSES THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD)

- **Allows counties to determine local roadway design.** The MUTCD will 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 IIJA also creates new standards to facilitate the rollout of EV charging stations.
- **Requires USDOT to update the MUTCD.** The required update will provide for the protection of vulnerable road users, testing and integrating automated vehicle technology, the installation of electronic traffic. It also incorporates recommendations issued by the National Committee on Uniform Traffic Control Devices that have not yet been incorporated.

## CREATES A NEW COMPETITIVE GRANT PROGRAM TO ADDRESS THREATS TO PEDESTRIANS

$25 MILLION OVER FIVE YEARS

Counties can apply directly to USDOT for funds for bollard installation, defined as a "project to install raised concrete or other metal posts on a sidewalk adjacent to a roadway to are designed to slow or stop a vehicle." The federal share is up to 100 percent.

## ESTABLISHES A NEW RURAL SURFACE TRANSPORTATION GRANT PROGRAM

$2 BILLION OVER FIVE YEARS

Under this new program, a rural area is defined as "an area outside an urbanized area with a population over 200,000." Eligible counties can 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 can also bundle projects.

No more than 10 percent of funds can be used toward project with costs less than $25 million. Finally, USDOT must reserve 15 percent annually of funds made available under this section to provide grants for eligible projects in states with rural roadway fatalities as a result of lane departures that are higher than the national average.

| FY 2022 | FY 2023 | FY 2024 | FY 2025 | FY 2026 |
|---|---|---|---|---|
| $300 million | $350 million | $400 million | $450 million | $500 million |

## ESTABLISHES NEW CRITERIA FOR METROPOLITAN PLANNING ORGANIZATIONS (MPOS) TO CONSIDER WHEN DESIGNATING COUNTY AND OTHER LOCAL REPRESENTATIVES

MPOs are required to consider the equitable and proportional representation of the population of the metropolitan area when designating officials or representatives. This section will also enhance coordination among MPOs designated within the same area.

## ADDRESSES THE APPALACHIAN REGIONAL COMMISSION AND THE ALASKA DENALI COMMISSION

The number of **Appalachian Regional Commission <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwjous2T07DyAhVeF1kFHc3cBPwQFnoECAUQAw&url=https%3A%2F%2Fwww.arc.gov%2F&usg=AOvVaw3Z83WCQwaRpDU4SUGivSLJ>** (ARC) counties increase, and the ARC becomes eligible for new funding initiatives to provide technical assistance, make grants and facilitate projects to deploy broadband and improve energy and economic resilience, including the:

- **High-Speed Broadband Deployment Initiative | $100 million over five years**
- **Appalachian Regional Energy Hub Initiative | $25 million over five years**

The bill also clarifies that any funds transferred to Alaska's **Denali Commission <http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwjuv_6qtbDyAhVCG80KHa08AnEQFnoECAkQAw&url=https%3A%2F%2Fwww.denali.gov%2F&usg=AOvVaw0hHmgN5W59iLNyDgvYarpI>** (Alaska) from another federal agency are no longer be subject to any requirements previously attached to those funds, including any regulatory actions by the transferring agency.

# Permit Streamlining

## CODIFIES "ONE FEDERAL DECISION" PERMIT STREAMLINING PROVISIONS

USDOT is required to take several steps to implement new streamlining policies, including:

- 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, will have the potential to expedite project delivery
- Requiring USDOT to annually report to Congress the time it takes to complete reviews required by the National Environmental Protection Act (NEPA)

While many of these provisions are promising, they are also avoided through include simple exemptions. For instance, a federal agency may extend a review timeline beyond two years simply by setting a new completion date.

> ***Counties have strongly advocated <https://naco.sharefile.com/d-s9df2a99230c54577a5ef5eb9a0455fb8> for commonsense reforms to the NEPA process that preserve the environment while also facilitating the construction of critical infrastructure projects.***

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

Federal agencies are 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 have also been established, and federal agencies not meeting a prescribed timeline is subject to reporting requirements.

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## INCREASES COST THRESHOLDS ELIGIBLE FOR CATEGORICAL EXCLUSIONS

For small projects, the threshold increases from $5 million to $6 million; for large projects, it increases from $30 million to $35 million, thereby making more projects eligible.

# Climate

New competitive grant programs and state sub-allocation requirements for counties to address climate change would be created.

## CHARGING AND FUELING INFRASTRUCTURE GRANTS

$2.5 BILLION OVER FIVE YEARS

Counties can apply directly to USDOT for funds to carry out eligible projects that promote the deployment of infrastructure for EVs and hydrogen, propane and natural gas in designated areas. Propane refueling infrastructure is restricted to medium and heavy-duty vehicles.

Fifty percent of total program funds will be distributed annually through Community Grants for the installation of EV and alternative fueling infrastructure on public roads, schools and in other publicly accessible locations. Rural areas, low- and middle-income neighborhoods, and communities with either limited parking or a high number of multiunit housing will be prioritized for awards. The federal cost share will be 80 percent, with an additional requirement that – as a condition of contracting with an eligible entity to carry out a project under this section – a private entity is responsible for the local match.

## REDUCTION OF TRUCK EMISSIONS AT PORT FACILITIES

$250 MILLION OVER FIVE YEARS

Counties can apply to USDOT to carry out projects that reduce port emissions, including the advancement of port electrification at an 80 percent federal cost share. USDOT will be required to issue a Notice of Funding Opportunity to solicit applications by no later than April 1 each year.

### TOTAL FUNDING OVER FIVE YEARS

| AUTHORIZED FROM HTF | APPROPRIATED | PROGRAM TOTAL (SUBJECT TO APPROPRIATIONS) |
|---|---|---|
| $250 million | $150 million | $400 million |

> ***Local governments, including counties, own and operate port authorities throughout the country that act as major generators for the local, regional, state and federal economies.***

## CARBON REDUCTION FORMULA PROGRAM

$6.42 BILLION OVER FIVE YEARS

A state is required to sub-allocate 65 percent of funds apportioned for this purpose on a per-capita basis to counties and other local governments in the same way STBGP funds are distributed. Eligible projects include public transit projects, trails and other projects to facilitate non-motorized users of the road, the replacement of streetlights with energy-efficient alternatives, purchase or lease of zero-emissions construction equipment, among several others.

For areas of 50,000 or more, a state is required to provide obligation authority (OA). When obligation authority is provided alongside contract authority, the entity in receipt of OA is able to obligate – or spend – the funds designated for their area, versus OA remaining with the state and the state retaining control over project selection.

## PROTECT GRANT PROGRAM

### $8.7 BILLION OVER FIVE YEARS ($1.4 BILLION COMPETITIVE)

In addition to a formula component, the new Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation (PROTECT) program will provide competitive grants, through contract authority from the Highway Trust Fund, that counties can apply for directly through USDOT to carry out projects, including:

- Enhancing the resiliency of infrastructure assets, including projects to improve the resilience of surface transportation assets and evacuation routes
- Ensuring continuity of operations and/or rapid recovery of communities where a natural disaster has occurred
- Utilizing and improving natural coastal infrastructure

The program creates four subgrants to distribute the funds:

- Planning Grants ($140 million)
- Resilience Improvement Grants ($980 million)
- Community Resilience and Evacuation Route Grants ($140 million)
- At-Risk Coastal Infrastructure Grants ($140 million)

The federal cost share ranges from 80 to 100 percent for various projects eligible under this section. There are also opportunities to reduce the local match requirements by meeting a voluntary resiliency planning requirement.

## HEALTHY STREETS PROGRAM

### $500 MILLION OVER FIVE YEARS

Counties can apply directly to USDOT for this discretionary grant program to install cool and/or porous pavements or to expand tree cover with the goal of reducing urban heat centers and improving air quality. Priority will be given to applicants who:

- Are proposing projects in low-income or disadvantaged communities

- Have entered into a community benefits agreement with community representatives
- Are partnering with a qualified youth or conservation corps

The federal cost share for this program is  80 percent, with a waiver of up to 100 percent available at the discretion of USDOT.

# Rail

## ESTABLISHES A NEW COMPETITIVE GRANT PROGRAM FOR INFRASTRUCTURE "MEGA PROJECTS"

$10 BILLION OVER FIVE YEARS

Counties can apply directly to USDOT for a new competitive program to provide single or multi-year grants at $2 billion annually over five years to carry out expensive, complex projects, referred to as "mega projects", that have the potential to generate national or regional economic mobility or safety benefits. Other federal assistance could be used to meet local match requirements, not to exceed a maximum of 80 percent federal share. Eligible projects include:

- Highway or bridge projects
- Freight intermodal or freight rail projects with a public benefit, including ports
- Rail-highway grade separation or elimination projects
- Intercity passenger rail projects and public transportation projects

Additionally, to be eligible, project costs must reasonably be projected to either:

1. Be equal to or greater than $500 million; or
2. Fall between $100 million and $500 million (50 percent of project awards are set-aside to fund these projects)

Certain projects can also be bundled. Eligible project costs include:

- Development phase activities
- Construction, reconstruction and rehabilitation
- Real property procurement
- Environmental mitigation

USDOT is required to ensure geographical diversity and a balance between rural and urban areas in project selections, with 50 percent of the funding reserved for projects between $100 million and $500 million. Should a project not be selected, the applicant can request technical assistance.

### TOTAL FUNDING OVER FIVE YEARS

| AUTHORIZED FROM HTF | APPROPRIATED | PROGRAM TOTAL (SUBJECT TO APPROPRIATIONS) |
|---|---|---|
| $10 billion | $5 billion | $15 billion |

## CREATES A NEW COMPETITIVE GRANT PROGRAM TO ELIMINATE AT-GRADE RAIL-HIGHWAY CROSSINGS

$2.5 BILLION OVER FIVE YEARS

Counties can apply directly to USDOT for these competitive grants funds, at an 80 percent federal cost share, to meet the following goals of:

- Eliminating frequently blocked at-grade crossings
- Improving the health and safety of communities
- Reducing the impacts of rail operations on underserved communities
- Improving mobility and commerce

$500 million will be provided annually for eligible projects, including:

- Closing or separating at-grade crossings
- Track relocation
- Installing protective devices and other technological solutions that improve safety
- Planning, environmental review and design activities related to an eligible project

#### TOTAL FUNDING OVER FIVE YEARS

| AUTHORIZED FROM GF | APPROPRIATED | PROGRAM TOTAL (SUBJECT TO APPROPRIATIONS) |
|---|---|---|
| $2.5 billion | $3 billion | $5.5 billion |

## AUTHORIZES DIRECT, FLEXIBLE GRANT PROGRAM (FORMERLY BUILD/TIGER) FOR THE FIRST TIME

$7.5 BILLION OVER FIVE YEARS

The Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grant program is now an authorized program for the first time. This flexible, competitive grant program – formerly named both BUILD and TIGER by previous administrations – is widely utilized by counties to carry out a variety of eligible infrastructure projects at an 80 percent federal share. The share may be increased at the discretion of USDOT for projects in rural, historically disadvantaged or persistent poverty areas.

Similar to current law, surface transportation projects with significant local or regional impacts are eligible, now including projects to replace and rehabilitate culverts or prevent stormwater runoff. Grant award amounts are limited to $25 million and can be no less than $5 million for urbanized areas and no less than $1 million for rural areas. The 50/50 geographical split for urban-rural project selections remain.

USDOT must publish a Notice of Funding Opportunity (NOFO) for the next round of RAISE awards no later than 270 days following the date that FY 2022 appropriations are made available, the timing of which is currently unclear. USDOT has jurisdiction over the NOFO's award criteria.

#### TOTAL FUNDING OVER FIVE YEARS

| AUTHORIZED FROM HTF | APPROPRIATED | PROGRAM TOTAL (SUBJECT TO APPROPRIATIONS) |
|---|---|---|
| $7.5 billion | $7.5 billion | $15 billion |

## ESTABLISHES A NEW CULVERT REMOVAL, REPLACEMENT AND RESTORATION GRANT PROGRAM

$4 BILLION OVER FIVE YEARS

Counties can 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 will be required to provide technical assistance to underserved communities. The section authorizes $800 million annually, with a federal share of no more than 80 percent.

#### TOTAL FUNDING OVER FIVE YEARS

| AUTHORIZED FROM GF | APPROPRIATED | PROGRAM TOTAL (SUBJECT TO APPROPRIATIONS) |
|---|---|---|
| $4 billion | $1 billion | $5 billion |

## ALLOWS LOCAL PUBLIC AUTHORITIES TO ENTER INTO MULTI-STATE FREIGHT COMPACTS

$25 MILLION OVER FIVE YEARS

Counties and other local public authorities, including ports, can enter into multi-state compacts to improve the movement of goods, including assembling rights-of-way and performing capital improvements. A compact could subsequently establish a multi-state advisory freight corridor advisory committee with state departments of transportation and other entities, including local governments.

USDOT will be required to establish a grant program to facilitate the efforts of these compacts within the first three years of their inception, authorized at $5 million annually over the life of the bill with a 50 percent non-federal match requirement.

## REQUIRES USDOT TO ESTABLISH AN INTERGOVERNMENTAL RESEARCH GROUP FOR FREIGHT

USDOT is required to create a National Cooperative Freight Transportation Research Program to be administered in conjunction with the National Academy of Sciences (NAS). NAS will be required to establish an advisory committee with public and private stakeholders, including local governments and local public authorities, which will be tasked with recommending national research agenda for the program and developing a multi-year strategic plan. NACo will track the creation of this group and push for county inclusion.

## ESTABLISHES A NEW RURAL ASSISTANCE PROGRAM THROUGH THE BUILD AMERICA BUREAU

Counties located outside of an urbanized area with a population of more than 150,000 are eligible to apply directly to USDOT for a new Rural and Tribal Assistance Pilot Program. The program will provide financial, technical and legal assistance; assistance with development-phase activities; and information on innovative financing practices to rural and Tribal communities. It will sunset after five years.

Funding, which will come from "any amount made available to the Secretary to provide credit assistance under an eligible program that is not otherwise obligated," will be authorized at no more than the following levels each year:

- **FY 2022**: $1.6 million
- **FY 2023**: $1.8 million
- **FY 2024**: $2.0 million
- **FY 2025**: $2.2 million
- **FY 2026**: $2.4 million

## REQUIRES CONSULTATION WITH LOCAL GOVERNMENTS TO DEVELOP NEW ROUTES

Amtrak is required to consult with states, local governments including counties, relevant commuter and regional transportation authorities, host railroads, the FRA and other stakeholders on the development of new state-supported routes.

## CREATES NEW REPORTING REQUIREMENTS FOR SOME PUBLIC TRANSIT AGENCIES

A public transit entity that owns infrastructure used for intercity rail passengers in the Northeast Corridor (NEC) is required to develop an asset management system to inform Amtrak's NEC capital investment program.

## EXPANDS ELIGIBILITIES UNDER THE CONSOLIDATED RAIL INFRASTRUCTURE AND SAFETY IMPROVEMENTS (CRISI) GRANT PROGRAM

$5 BILLION OVER FIVE YEARS

CRISI program eligibilities have been expanded to include eligibilities for the following:

- Development and implementation of measures to prevent trespassing
- Research and development to advance innovative rail projects
- Preparation of emergency plans for communities through which hazardous materials are transported by rail

### TOTAL FUNDING OVER FIVE YEARS

| AUTHORIZED FROM GF | APPROPRIATED | PROGRAM TOTAL (SUBJECT TO APPROPRIATIONS) |
|---|---|---|
| $5 billion | $5 billion | $10 billion |

## EXTENDS RESTORATION AND ENHANCEMENT GRANT PROGRAM PROJECT TIMELINES

$250 MILLION OVER FIVE YEARS

The amount of time the FRA Restoration and Enhancement grant program can provide funds to support a route has been extended from three to six years.

> ***Counties can utilize Restoration and Enhancement funds to expand or enhance intercity passenger rail. Counties directly support 78 percent of the nation's public transit systems, including intercity passenger rail.***

## REFORMS AND RENAMES THE FEDERAL-STATE PARTNERSHIP FOR STATE OF GOOD REPAIR GRANT PROGRAM

$7.5 BILLION OVER FIVE YEARS

The legislation renames thefra Federal-State Partnership for State of Good Repair as the Federal-State Partnership for Intercity Passenger Rail grant program and expands project eligibilities to allow for new capacity, including by:

- Expanding or establishing new intercity passenger rail service
- Improving intercity rail service performance and efficiency
- Designating NEPA-related activities an eligible use of funds

**TOTAL FUNDING OVER FIVE YEARS**

| AUTHORIZED FROM GF | APPROPRIATED | PROGRAM TOTAL (SUBJECT TO APPROPRIATIONS) |
|---|---|---|
| $7.5 billion | $36 billion | $42.5 billion |

## ESTABLISHES A NEW CORRIDOR IDENTIFICATION AND IMPLEMENTATION PROGRAM

A new Corridor Identification and Development Program will be established to facilitate the development of intercity passenger rail corridors. Counties are eligible to submit corridor proposals.

## REQUIRES AN EVALUATION OF THE RAILWAY-HIGHWAY CROSSINGS PROGRAM

USDOT is required to evaluate the requirements of the railway-highway crossings program and whether the structure of the program provides sufficient incentives and resources to states and local agencies to make changes at highway-rail grade crossings that are most effective at reducing deaths, among other goals.

## ESTABLISHES A BLOCKED CROSSING PORTAL PILOT PROGRAM

The FRA is required to establish a blocked crossing portal to collect information about blocked highway-rail grade crossings from the public in order to identify frequent and long-duration blocked highway-rail grade crossings; conduct outreach to communities, emergency responders and railroads; support collaboration in the prevention of incidents at highway-rail grade crossings, and assess the impacts of blocked crossings. The program will last for three years.

> ***View the FRA's blocked crossing incident reporter here <https://www.fra.dot.gov/blockedcrossings/> .***

## ESTABLISHES A NEW SAFE STREETS AND ROADS FOR ALL GRANT PROGRAM

$1 BILLION OVER FIVE YEARS

Counties can apply directly to USDOT for competitive awards to support and implement local safety initiatives to prevent death and serious injury on roads and streets, known as Vision Zero and Toward Zero Deaths national strategies. $200 million is authorized annually to carry out the program; however, the appropriations portion of the bill will provide $1 billion annually.

#### TOTAL FUNDING OVER FIVE YEARS

| AUTHORIZED FROM GF | APPROPRIATED | PROGRAM TOTAL (SUBJECT TO APPROPRIATIONS) |
|---|---|---|
| $1 billion | $5 billion | $6 billion |

## REQUIRES EVALUATION AND IMPROVEMENT OF LOCAL INFRASTRUCTURE DATA ANALYSIS TOOLS

The Bureau of Transportation Statistics (BTS) is directed to perform outreach to state and local planning and infrastructure decision-making officials to determine the data analysis tools needed to assist local communities in making infrastructure decisions. Based on the outreach, BTS will be required to create a plan for reviewing and updating existing data analysis tools and developing any new tools necessary to assist local communities in making infrastructure investments.

## ESTABLISHES A NEW STRENGTHENING MOBILITY AND REVOLUTIONIZING TRANSPORTATION (SMART) GRANT PROGRAM

$500 MILLION OVER FIVE YEARS

Counties can apply directly to USDOT for competitive awards to carry out demonstration projects focused on smart community technologies and systems, including those focused on:

- Coordinated automation
- Connected vehicles
- Intelligent, sensor-based infrastructure
- Systems integration
- Commerce delivery and logistics
- Drones
- Smart grid technologies

Both development and construction phase activities are eligible costs. Certain restrictions apply, including:

- No more than 40 percent of the funds awarded to primarily benefit large communities
- No more than 30 percent awarded to benefit midsized communities
- No more than 30 percent awarded to benefit rural communities

#### TOTAL FUNDING OVER FIVE YEARS

| AUTHORIZED FROM GF | APPROPRIATED | PROGRAM TOTAL (SUBJECT TO APPROPRIATIONS) |
|---|---|---|
| $500 million | $500 million | $1 billion |

## ESTABLISHES A NEW INTERGOVERNMENTAL WORKING GROUP FOR ELECTRIC VEHICLES (EVS)

USDOT, in conjunction with the U.S. Department of Energy, is required to establish an EV working group tasked with making recommendations regarding the "development, adoption, and integration of light-, medium-, and heavy-duty EVs into the transportation and energy systems of the U.S." An organization representing local governments, such as NACo, will be among other required members of the group.

## ESTABLISHES A RISK AND SYSTEM RESILIENCE ASSESSMENT INTERGOVERNMENTAL PROCESS

USDOT is required to work with federal, state and local agencies to develop a process for quantifying annual risk in order to increase system resilience within the nation's surface transportation system. USDOT will be instructed to provide guidance and technical assistance to state and local agencies on the process.

## AUTHORIZES THE USE OF LOCAL HIRING PREFERENCE IN FEDERALLY FUNDED INFRASTRUCTURE PROJECTS

Federal transportation grant recipients, including counties, are authorized to implement a local hiring preference, including through pre-hire agreements.

# Public Transit

## AUTHORIZES HIGHWAY TRUST FUND (HTF) CONTRACT AUTHORITY FOR MASS TRANSIT FOR FY 2022 THROUGH FY 2026

$69.9 BILLION OVER FIVE YEARS

***43.5% increase over FAST Act***

Contract authority is authorized at the following levels over five fiscal years:

- **FY 2022:** $13.36 billion
- **FY 2023:** $13.63 billion
- **FY 2024:** $13.99 billion
- **FY 2025:** $14.28 billion
- **FY 2026:** $14.64 billion

> ***Counties directly support 78 percent of public transit systems that keep our residents connected in every corner of the country.***

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## MAKES CHANGES TO THE CAPITAL INVESTMENT GRANT (CIG) PROGRAM

$15 BILLION OVER FIVE YEARS

***30.3% increase over FAST Act***

The bill makes several changes to the program, including:

- Raising the threshold for federal assistance from $100 million to $150 million  and total project cost from $300 million to $400 million for Small Starts projects
- Requiring New Starts, Small Starts and core capacity improvement project applicants to make progress toward meeting the performance targets set in section 5326(c)(2) in order to receive a grant
- Requiring core capacity improvement projects be located in a corridor that is projected to be at or over capacity within the next ten years, rather than the next five years, before moving into the engineering phase
- Allowing applicants to bundle multiple projects that meet certain requirements and restrictions
- Requiring USDOT to establish a CIG Dashboard displaying information on each project seeking a grant agreement

### TOTAL FUNDING OVER FIVE YEARS

| AUTHORIZED FROM GF | APPROPRIATED | PROGRAM TOTAL (SUBJECT TO APPROPRIATIONS) |
|---|---|---|
| $15 billion | $8 billion | $23 billion |

Provides supplemental appropriations for certain Transit Infrastructure Grants

**$10.25 BILLION OVER FIVE YEARS**

The IIJA would make supplemental appropriations in equal amounts over the life of the bill to three FTA programs, including grants for:

- Enhanced Mobility of Seniors and Individuals with Disabilities (5310): $250 million
- Low-No Emission Buses (5339(c)): $5.25 billion
- State of Good Repair (5337(c)): $4.75 billion

## INCREASES RURAL SET-ASIDE FOR BUS GRANTS

The bill raises the Buses and Bus Facilities competitive grant set aside for rural projects from 10 to 15 percent. The bill also requires that 25 percent of the competitive funding go to projects related to the acquisition of low or no emission buses or bus facilities rather than zero-emission vehicles and facilities. Further, it requires that recipients of grants related to zero-emissions vehicles or related infrastructure use at least 5 percent of their award to fund workforce development training to address the impact of the transition to zero-emission vehicles.

## CREATES NEW REQUIREMENTS FOR FEDERAL TRANSIT FUND RECIPIENTS

### URBANIZED AREA FORMULA GRANTS (5307)

The bill requires that section 5307 recipients serving an urbanized area with a population of 200,000 or more include in their comprehensive agency safety plan a risk reduction program for transit operations to improve safety by reducing the number and rates of accidents, injuries, and assaults on transit workers. It also requires that a joint labor-management safety committee be formed to approve the safety plan.

The bill also establishes a new safety set aside. These 5307 recipients will be required to allocate at least .75 percent of their funds to safety-related projects eligible under section 5307. If the recipient failed to meet the performance targets for risk reduction established by the safety committee, the recipient will be required to use the set-aside for projects reasonably likely to meet help meet those targets.

### PUBLIC TRANSPORTATION EMERGENCY RELIEF (PTER)

The bill requires PTER applicants, including counties, to demonstrate proof of all necessary and required insurance coverage prior to receiving a grant.

## TRANSIT SAFETY

The bill requires recipients of federal funding provided by the Federal Transit Administration (FTA) to report additional data for inclusion in the National Transit Database, including data on assaults of transit workers and bus-related fatalities.

# Funding & Financing

## AUTHORIZES GENERAL FUND TRANSFER TO BAIL OUT THE HIGHWAY TRUST FUND

The trust fund, which is facing imminent insolvency, will receive a transfer from the U.S. Treasury's general fund in the amount of $118 billion, including $90 billion for the highway account and $28 billion for the mass transit account.

> ***Returning solvency to the federal Highway Trust Fund <https://www.cbo.gov/system/files/2021-07/51300-2021-07-highwaytrustfund.pdf> is a major priority of America's counties due to the funding certainty it provides for critical transportation projects. While this transfer will shore up the fund, counties urge federal policymakers to pursue a permanent fix for the fund that will ensure its long-term solvency.***

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## RAISES THE CAP ON PRIVATE ACTIVITY BONDS

The cap has increased from $15 billion to $30 billion, allowing counties to enter into additional public-private partnerships to supplement future surface transportation projects with private investments, which ultimately supports broader community and economic development.

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## MAKES AMENDMENTS TO THE TIFIA PROGRAM

Several changes include:

- Lifting the requirement that counties and other borrowers prepay their loans with excess revenues if those revenues are used for surface transportation
- Increasing the threshold for TIFIA projects from $75 million to $150 million
- Adding new eligibilities, including infrastructure projects located near transportation facilities, airport-related projects, and the acquisition of plant and wildlife habitats to mitigate any project-related environmental impacts

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## MAKES LOCAL GOVERNMENTS ELIGIBLE FOR THE SURFACE TRANSPORTATION SYSTEM FUNDING ALTERNATIVES PROGRAM

Counties can apply directly to USDOT for funds to carry out eligible activities, including testing the design and equity of implementing an alternative user fee among income groups and rural and urban drivers and other activities associated with transitioning away from the federal gas tax. The federal cost share will be 80 percent for entities who have not received a previous grant under the program and 70 percent for those who have.

# Airports

## PROVIDES SUPPLEMENTAL APPROPRIATIONS FOR THE AIRPORT IMPROVEMENT PROGRAM (AIP)

$15 BILLION OVER FIVE YEARS

Counties who own or operate airports or airport authorities are eligible for AIP funds. Public airports across the U.S. are entitled to a certain amount of AIP funding <https://www.faa.gov/airports/aip/2021_aip_grants/> each year through a formula based on passenger volumes. Should capital project needs exceed the the availability of AIP formula funds for an airport, the FAA may supplement formula funds with dicretionary resources.

$3 billion will be provided annually over FY 2022 through FY 2026 from the general fund of the U.S. Treasury and remain available for the following three years after the year in which it is provided. Funding will be distributed annually in the following ways:

- No more than $2.4 billion through formulas to primary airports
- No more than $500 million apportioned for general aviation and commercial service airports
- $20 million for recipients of contract tower program competitive awards

The bill also clarifies that no AIP funds can go toward debt service.

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## CREATES NEW "GROUNDSIDE" COMPETITIVE GRANT PROGRAM FOR AIRPORT IMPROVEMENTS

$5 BILLION OVER FIVE YEARS

The new program provides $1 billion annually for competitive awards to carry out eligible projects to improve the aging infrastructure of airport terminals, which will be confined to:

- On-airport rail access projects
- Relocating, reconstructing, repairing or improving an airport-owned traffic control tower

No more than 55 percent for large hubs, 15 percent for medium hubs; 20 percent for small hubs; and 10 percent for nonprimary airports could be awarded annually. The federal cost share of a project will be 80 percent for large and medium-size airports and 95 percent for small and nonprimary airports. Projects that would increase access and capacity will be prioritized.

## Ports

### INCREASES FUNDING FOR THE PORT INFRASTRUCTURE DEVELOPMENT PROGRAM

$2.25 BILLION OVER FIVE YEARS

$450 million will be provided annually over FY 2022 through FY 2026 from the general fund of the U.S. Treasury and remain available for the following ten years after the year in which it was provided. Newly eligible projects include:

- Improvements to address sea-level rise, flooding and/or extreme weather
- Port electrification
- Procuring new equipment
- Installing electric vehicle/alternative refueling infrastructure

# ENERGY & ENVIRONMENT

### CREATES A NEW COMPETITIVE GRANT PROGRAM TO ENHANCE THE RESILIENCE OF THE ELECTRIC GRID

$5 BILLION OVER FIVE YEARS

Counties that serve as the local electric grid operator, electric storage operator, electric generator, transmission ower or operator, distribution provider or fuel supplier are eligible to apply for the program. USDOE would make competitive awards to carry out a variety of eligible activities to reduce the likelihood and consequence of impacts to the electric grid due to extreme weather, wildfire and natural disaster.

### AUTHORIZES FUNDING FOR THE WEATHERIZATION ASSISTANCE PROGRAM

$3.5 BILLION IN FY 2022

Funds will remain available until expended for eligible projects that reduce energy costs for low-income households by improving energy efficiency. Counties are eligible to apply directly to the program.

## CREATES A NEW CARBON UTILIZATION GRANT PROGRAM

$310.14 MILLION OVER FIVE YEARS

State and local governments are eligible for new grants to procure and use products derived from captured carbon oxides. It expands the U.S. Department of Energy (USDOE) Carbon Utilization Program objectives to include developing standards and certifications to support the commercialization of carbon oxide products. Funding is authorized at the following levels:

- **FY 2022:** $41.00 million
- **FY 2023**: $65.25 million
- **FY 2024**: $66.56 million
- **FY 2025**: $67.94 million
- **FY 2026**: $69.39 million

## CREATES A NEW COMPETITIVE GRANT PROGRAM FOR MODERNIZING ENERGY INFRASTRUCTURE

$3 BILLION OVER FIVE YEARS

Counties can apply directly to USDOE for the new Strengthening Mobility and Revolutionizing Transportation (SMART) Grant Program to carry out demonstration projects focusing on advancing smart community technologies. Selection criteria includes the extent to which an entity has:

- A public transportation system capable of integration with other systems to improve mobility
- A population density and needs that will be suitable for a demonstration project under this program
- A community with the capacity and leadership to carry out the proposed project transparently and who is likely to be successful
- Access to advanced data and technology USDOE would be required to ensure geographic diversity in making awards

Eligible projects  include:

- Planning activities and environmental reviews
- Pre-engineering and design work
- Procurement of real property
- Construction phase activities

Certain projects will be prioritized. At the request of an applicant, USDOE will provide technical assistance. Finally, a successful applicant will be required to submit to USDOE two years after the date of award a report containing a benefit-cost analysis assessing the cost of deploying the project to the compared benefits, as well as the data supporting how an entity is meeting the project goals.

## ESTABLISHES A CARBON DIOXIDE TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION (CIFIA) PROGRAM

$2.1 BILLION OVER FIVE YEARS

$600 million is authorized annually in FY 2022 and FY 2023 and $300 million in each FY 2024 through FY 2026 to establish a CIFIA loan program that will provide flexible, low-interest loans for carbon dioxide transportation infrastructure projects and grants for new infrastructure to facilitate future growth.

> ***Counties utilize transportation alternatives, like low-pollutant emission vehicles, mass transit and carpools to help decrease carbon dioxide emission. CIFIA would expand our ability to implement these local programs.***

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## ADDRESSES NEEDS OF TRANSMISSIONS LINES

**NEW REVOLVING LOAN FUND | $2.5 BILLION OVER FIVE YEARS**
USDOE can issue loans to or enter into public-private partnerships with counties and other eligible entities to carry out replacement or enhancement projects on eligible transmission lines.

**NEW TRANSMISSION FACILITATION PROGRAM | $50 MILLION OVER FIVE YEARS**
Counties can apply directly to USDOE for these competitive funds to carry out eligible projects, including:

- Constructing or replacing an electric power transmission line
- Increasing transmission capacities
- Connecting an isolated microgrid to an existing infrastructure corridor

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## MAKES GRANTS TO STATE AND LOCAL GOVERNMENTS FOR BATTERY PROCESSING

$3 BILLION OVER FIVE YEARS

Counties can apply directly to USDOE for these competitive grant funds that will remain available until expended to carry out eligible projects, including:

- Demonstration projects for advanced battery component manufacturing and recycling (no less than $50 million)
- Construction of one or more new commercial-scale advanced battery component manufacturing or recycling facility (no more than $100 million)
- Retooling, retrofitting or expanding existing battery processing facilities (no more than $50 million)

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## ENHANCES ENERGY EFFICIENCY IN PUBLIC SCHOOLS

$500 MILLION OVER FIVE YEARS

Local education agencies and public schools are eligible to apply to USDOE for competitive grants to carry out eligible activities, including:

- Improvements, repairs or renovations to schools that directly decrease energy costs
- Improvements teacher and student health
- Installation of alternative fueling infrastructure on school grounds for buses or the public
- Procurement of alternative fueled vehicles for bus fleets and other school-related operations

A successful applicant will be required to, upon request of USDOE, submit a report describing how the funds were used, estimated cost-saving, metrics and other requirements outlined in the IIJA.

## EXPANDS ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT PROGRAM ELIGIBILITIES

$550 MILLION IN FY 2022

Funds will remain available until expended. New eligibilities include:

- Programs for financing energy efficiency, renewable energy, and zero-emission transportation
- Capital investments
- Projects and programs that leverage public-private partnerships
- Programs allowing rebates, grants or other incentives for the purchase and installation of renewable energy technologies

> ***Counties support full funding for the Energy Efficiency and Conservation Block Grant Program. Additionally, we support including city populations in the overall county population numbers and urge the DOE to allow all "eligible" counties in all states to apply for the direct formula funding.***

## PROVIDES RESOURCES FOR COUNTY-OWNED OR -OPERATED HYDROELECTRIC FACILITIES

$628.6 MILLION IN FY 2022

**Hydroelectric efficiency improvement incentives:** $75 million is authorized in FY 2022 for hydroelectric efficiency improvement incentives. Counties that own or operate a turbine or other generating device which generates hydroelectric energy for sale that will be added to an existing dam or conduit are eligible for these funds.

**Hydroelectric capital improvement incentives:** $553.6 million is authorized in FY 2022 for incentive payments to the owners and operators of hydroelectric facilities for capital improvements related to maintaining and enhancing hydroelectricity generation by improvising grid resiliency, improving dam safety, and environmental improvements. Counties that are the owners or operators of hydroelectric facilities at existing dams are eligible for these payments to make the capital improvements.

## FUNDS BROWNFIELDS RESTORATION PROJECTS

$1.2 BILLION OVER FIVE YEARS

The funds can be used to carry out Brownfields projects authorized under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). This CERCLA funding will be available in grants, interagency agreements and associated program support costs.

Counties are eligible to apply for multipurpose grants, assessment grants, revolving loan fund grants, cleanup and job training grants, technical assistant, training and research grants under CERCLA.

> ***NACo encourages federal support for economic revitalization and environmental restoration programs in coordination with local governments.***

# PUBLIC LANDS & WESTERN WATER STORAGE

## EXTENDS THE SECURE RURAL SCHOOLS (SRS) PROGRAM FOR THREE YEARS

The annual 5 percent funding reduction will end, and funding will increase for the next three years to FY 2017 levels, resulting in an increase of approximately $60 million per year compared to FY 2020 payments.

The bill creates a new Resource Advisory Committee (RAC) appointment pilot program that will allow the U.S. Forest Service Chief or the Bureau of Land Management (BLM) Director to present the Secretaries of Agriculture or Interior with recommended RAC members. The Secretaries will have 30 days to confirm or reject the appointees, who will be automatically appointed if no action is taken within that 30-day period. This is similar to an existing pilot program that allows regional foresters and BLM state directors only in Arizona and Montana to appoint RAC members, which has cut down on waiting periods from two years to a few weeks in most instances.

Title III funds can be used for expanding broadband access in schools, which will be key to improving educational quality in rural areas.

Counties rely on SRS payments <https://ce.naco.org/?dset=Secure%20Rural%20Schools%20(SRS)&ind=SRS%20Profiles> to provide numerous critical services, including infrastructure maintenance, conservation projects, search and rescue missions and fire prevention programs. If Congress fails to renew its long-standing federal obligation to forest counties and to the lands managed by the federal government by not improving forest management and reauthorizing the SRS program, counties across the United States could face dramatic budgetary shortfalls. The last time authorization for SRS lapsed in FY 2016, federal forest payments to counties decreased by over 80 percent on average.

## PROVIDES RESOURCES FOR WILDFIRE RISK MITIGATION

### $5.5 BILLION OVER FIVE YEARS

$3.4 billion will be directed to the U.S. Forest Service and the U.S. Department of the Interior to reduce the threat of wildfire on federal lands through mechanical thinning, timber harvests, prescribed burns, community wildfire protection grants and collaborative led projects. Agencies will have to come up with a plan to treat 10 million acres of forestland by 2027 for wildfire risk reduction within the Wildland-Urban Interface and near critical drinking water sources.

The bill creates a new categorical exclusion for forest management activities to establish fuel breaks to protect critical infrastructure from wildfire, including roads, water infrastructure, pipelines and transmission lines.

Counties believe federal, state and local governments must work together to combat the growing threat of wildfire to communities, livelihoods and the environment. Federal agencies should utilize all available tools, including increased timber harvests, hazardous fuels reduction projects, post-fire recovery and restoration efforts, addressing regulatory burdens, stopping frivolous lawsuits, scientific grazing practices.

An additional $2.1 billion is provided for ecosystem restoration through Good Neighbor Agreements <https://www.fs.usda.gov/managing-land/farm-bill/gna> , invasive species eradication, cross-boundary management projects and stewardship contracts.

Finally, the U.S. Department of Agriculture will have the authority to determine when an emergency situation exists on the national forests, which will allow for expanded forest management activities, such as harvesting dead or dying trees and post-fire reforestation, to be conducted on the National Forest System to meet the emergency threat.

## ADDRESSES U.S. FOREST SERVICE LEGACY ROADS AND TRAILS

$250 MILLION OVER FIVE YEARS

A new Forest Service Legacy Roads and Trails program is established to prioritize maintenance of authorized roads and trails within the National Forest System.

Additionally, the Forest Service will be allowed to decommission existing and previously closed roads and trails after proposed closures have undergone public comment, and the agency ensures closures do not impede resource, recreational or emergency access. The Forest Service will also be able to close some unauthorized user-created roads and trails not identified on agency maps, which may create conflict with users, local governments and other interested parties.

Counties support retaining and enhancing access to public lands for public safety, forest and ecosystem health, recreation and tourism, resource extraction, research and education, and private property rights. Roads are the primary infrastructure for access to public lands, and public lands road systems must be retained and maintained. Counties oppose road closures, road decommissioning and moratoria against road building without coordination and consistency with county natural resource plans.

## INVESTS IN WESTERN WATER INFRASTRUCTURE, EXPANDS ELIGIBLE USES OF AMERICAN RESCUE PLAN COUNTY RELIEF FUNDS

Counties and other entities that can demonstrate a need for a project that is technically and financially feasible, is in compliance with applicable laws and guidelines, and provides a federal benefit will be eligible to apply for $100 million in competitive grant funds for small water storage and groundwater storage projects.

The bill allows counties to use aid from the American Rescue Plan Act to satisfy the non-federal match requirement for Bureau of Reclamation projects.

> ***NACo has strongly advocated <http://naco.sharefile.com/d-sa19d3fecb8704ce7b91bece32ea9fa87> for more flexibility within county ARP funds, including for expanded infrastructure eligibilities.***

# DRINKING WATER & WASTEWATER

The bill uses S. 914, the *Drinking Water and Wastewater Infrastructure Act of 2021*, as a framework for the water infrastructure provisions. The primary differences between S. 914 and the Infrastructure Investment and Jobs Act revolve around lead service lines, emerging contaminants and PFAS.

> ***View NACo's DWWIA analysis here <https://www.naco.org/sites/default/files/documents/NACo%20Brief%20-%20Drinking%20Water%20and%20Wastewater%20Infrastructure%20Act_FINAL.pdf> .***

## AMENDS STATE REVOLVING LOAN FUNDS FOR WATER

$29.3 BILLION OVER FIVE YEARS

Counties are eligible for grants under both state revolving funds (SRFs). Investments levels for both the drinking water and clean water SRFs are authorized at the following levels:

- **FY 2022**: $2.40 billion
- **FY 2023**: $2.75 billion
- **FY 2024**: $3.00 billion
- **FY 2025**: $3.25 billion
- **FY 2026**: $3.25 billion

**Drinking Water State Revolving Fund:** The minimum percentage of funds that must go to disadvantaged communities would increase from 6 percent to 12 percent. Buy America requirements will apply to any upgrades made with these funds.

**Clean Water State Revolving Fund (CWSRF):** To the extent there are sufficient applications, a state will be required to use a minimum of 10 percent of CWSRF for grants, negative interest loans, and loan forgiveness, or to buy, refinance or restructure debt for disadvantaged communities as determined by the state. The amount for additional subsidies cannot exceed 30 percent.

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## ADDRESSES WATER CONTAMINANTS

**Capitalization grants | $15 billion over five years**

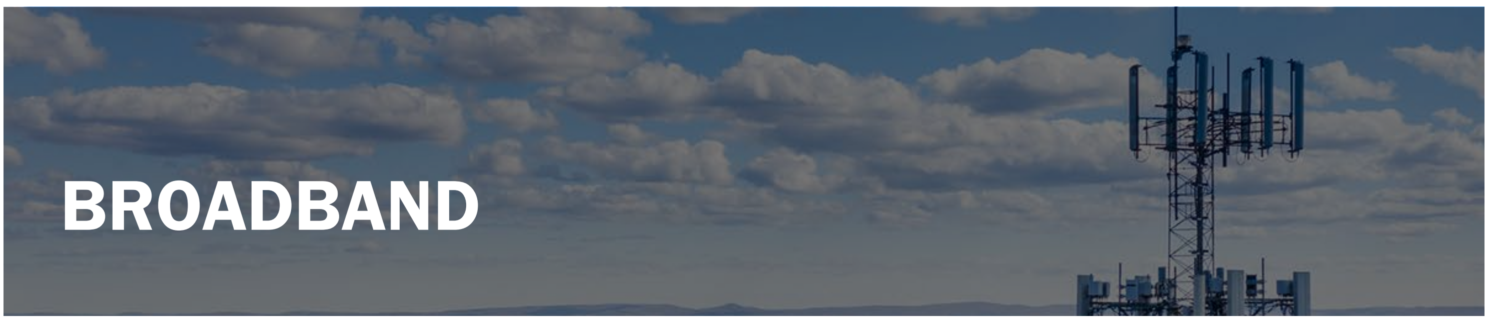
Forty-nine percent of funds provided to states for capitalization grants will be made available through grants to counties and other local governments to address lead in drinking water by replacing service lines and carrying out associated activities that are directly connected to identifying, planning, designing, and replacing lead service lines.

**Emerging contaminants | $1 billion over five years**

Funding to address emerging contaminants will be deposited into the state revolving fund and would be provided to eligible recipients as loans with 100 percent forgiveness or as grants.

**PFAS | $4 billion over five years**

Additional funding is provided to further address emerging contaminants in drinking water, with a focus on perfluoroalkyl and polyfluoroalkyl substances (PFAS). This funding will provided to eligible recipients as loans with 100 percent forgiveness or as loans.




## MAKES GRANTS TO STATES FOR BROADBAND DEPLOYMENT

$42.45 BILLION IN FY 2022

The bill allocates $42.45 billion to the Broadband Equity, Access and Deployment Program, which will make grants to states. If a state fails to apply for funding, a local government could apply on their behalf.

> ***Eliminating the digital divide is critical for the nation's counties, many of which still lack reliable, high-access to broadband in both urban and rural settings. NACo's Broadband Task Force recently published a new report <https://www.naco.org/sites/default/files/documents/NACo-Broadband-Taskforce-report.pdf> with policy recommendations that, if enacted, would facilitate the deployment of broadband throughout America's 3,069 counties.***

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## CREATES NEW "MIDDLE MILE" COMPETITIVE GRANTS TO FACILITATE BROADBAND DEPLOYMENT

$1 BILLION OVER FIVE YEARS

Counties can apply directly to the National Telecommunications and Information Administration (NTIA) for grants to construct, improve or acquire middle-mile infrastructure. Applications that connect middle mile and last mile networks or plan to provide service in unserved areas, among other criteria, will be prioritized.

> ***Counties own substantial amounts of public rights-of-ways, which are valuable local government real estate assets worth billions of dollars that are held in trust by local governments to benefit the local community. Counties are not preempted in this bill to offer any permitting fees or other requirements in the management of public rights-of-ways.***

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## EXTENDS THE EMERGENCY BROADBAND BENEFIT PROGRAM

The program <http://www.fcc.gov/broadbandbenefit> will be renamed the "Affordable Connectivity Program," and the monthly benefit will be reduced from $50 to $30 for consumers.

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## CREATES A NEW COMPETITIVE GRANT PROGRAM FOR BROADBAND

$1.25 BILLION OVER FIVE YEARS

A county is an eligible recipient of a subgrant, in addition to being eligible to serve as an "administering entity" for a state seeking funding under the newly established State Digital Equity Capacity Grant Program. In an administrator role, a county can do the following:

- Act as the recipient and administrator of awarded funds
- Develop and implement a State Digital Equity Plan
- Make subgrants to eligible entities
- Serve as an advocate for digital equity and inclusion and repository of best practices

# Cybersecurity

## CREATES A NEW COMPETITIVE GRANT PROGRAM FOR CYBERSECURITY

$250 MILLION OVER FIVE YEARS

A rural electric cooperative or county-owned utility can apply directly to the USDOE for competitive grants and technical assistance, as well as to enter into cooperative agreements with other eligible entities to meet the program's goal of protecting and responding to cyber threats against electric utility systems.

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## ESTABLISHES A NEW STATE AND LOCAL CYBERSECURITY GRANT PROGRAM

$1.3 BILLION OVER FOUR YEARS

Counties are eligible for these funds as subgrantees of states following apportionments made to states by the U.S. Department of Homeland Security based on total population and rural population figures.

No later than 45 days after a state received its apportionment, it will be required to obligate no less than 80 percent of grant funds to local governments. If a state fails to obligate the funds, a local government can petition DHS for direct funding.

Twenty-five percent of the obligated funds are reserved for rural areas. DHS will be required to consult with local representatives in carrying out this program, which will sunset in FY 2025.

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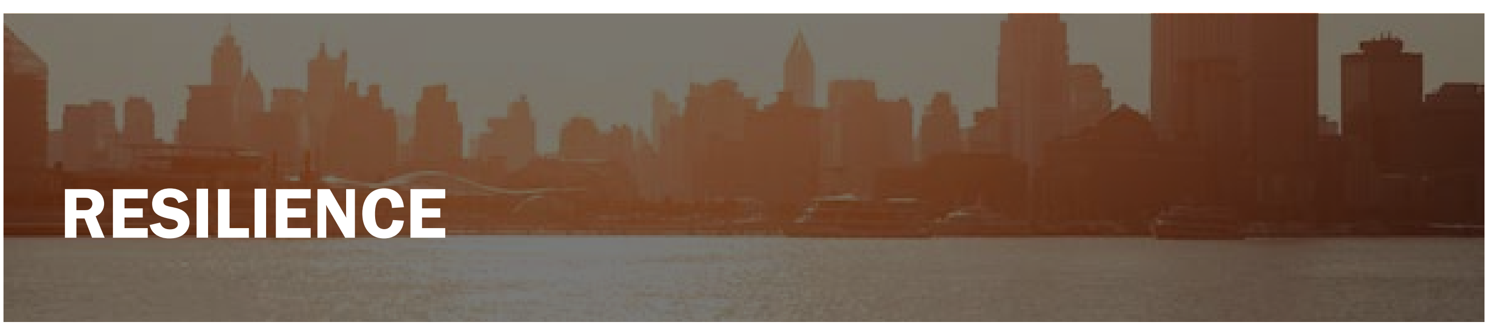
## REQUIRES USDOT TO CREATE A CYBERSECURITY TOOL FOR STATE AND LOCAL PUBLIC TRANSPORTATION AUTHORITIES

USDOT will be required to develop a tool and an office within the Department to assist public transportation agencies, an owner or operator of a highway, and manufacturers producing transportation-related products to protect against cyber incidents within two years of the bill's enactment.



# RESILIENCE

## AMENDS THE STAFFORD ACT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act will be amended to expand eligibilities within the Hazard Mitigation Grant Program (HMGP) to include the replacement or installation of wildfire resilient electrical transmissions or utility poles. HMGP provides vital funding to counties following major disaster declarations to make resilience improvements.

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## ESTABLISHES INTERGOVERNMENTAL COMMISSION ON WILDFIRE MITIGATION AND PREVENTION

The Wildland Fire Mitigation and Management Commission will be made up of representatives from the Bureau of Land Management, FEMA, National Park Service, Fish and Wildfire Service and the Forest Service – to study and make recommendations to improve federal policies relating to the prevention, mitigation, suppression and management of wildland fires across the United States. The bill also specifically identifies counties as one of 18 non-federal stakeholders that will hold a place on the Commission.

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## FULLY FUNDS THE SAFEGUARDING TOMORROW THROUGH ONGOING RISK MITIGATION (STORM) ACT

$500 MILLION OVER FIVE YEARS

The STORM Act will provide state and local governments with the ability to create resilience revolving loan funds for infrastructure projects.

> ***NACo, along with our resilience coalition partners, has advocated for full funding <https://naco.sharefile.com/d-s510f952f8fb841d99c0e6b1bf6621755> for the program, as it would provide additional resources for counties to utilize to improve local resilience.***

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## FUNDS THE BUILDING RESILIENT INFRASTRUCTURE AND COMMUNITIES (BRIC) PROGRAM

$1 BILLION OVER FIVE YEARS

BRIC, which replaced the FEMA Pre-Disaster Mitigation Program, provides funding to states and local governments to strengthen the resilience of critical infrastructure, such as transportation, energy, water supply and communications.

> ***View the FY 2021 BRIC Notice of Funding Opportunity here <https://www.fema.gov/fact-sheet/notice-funding-opportunity-fiscal-year-2021-building-resilient-infrastructure-and> .***

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### FUNDS FLOOD MITIGATION ASSISTANCE GRANTS

$3.5 BILLION OVER FIVE YEARS

The competitive grant program provides funding to state and local governments for projects that reduce or eliminate the risk of repetitive flood damage to buildings insured by the National Flood Insurance Program.

## LEGISLATIVE OUTLOOK

On November 15, President Biden signed the Infrastructure Investment and Jobs Act, enacting the legislation into law following a vote in the U.S. House of Representatives, where the bipartisna infrastructure package passed 228-206 earlier that month. These final steps followed the August 10 passage of the bill in the U.S. Seante by a strongly bipartisan 69-30 vote.

> America's 3,069 counties, parishes and boroughs thank our partners in the U.S. House and Senate for passing this critical, bipartisan legislation that will provide badly needed support for both county infrastructure and our local economies.

## MISSION

**Strengthen America's counties.**

## VISION

**Healthy, safe and vibrant counties across America.**

## ABOUT NACo

The National Association of Counties (NACo) strengthens America's counties, serving nearly 40,000 county elected officials and 3.6 million county employees. Founded in 1935, NACo unites county officials to:

Advocate county priorities in federal policymaking
Promote exemplary county policies and practices
Nurture leadership skills and expand knowledge networks
Optimize county and taxpayer resources and cost savings, and
Enrich the public's understanding of county government.