

# BIPARTISAN INFRASTRUCTURE LAW (BIL)\* Overview of Highway Provisions

\*Also known as the “Infrastructure Investment and Jobs Act”

---

Emily O Lawton  
Division Administrator  
South Carolina Division

February 2022



U.S. Department  
of Transportation

**Federal Highway  
Administration**

# BIL Goes Beyond Transportation

- Once-in-a-generation investment in infrastructure
- Grows the economy, enhances U.S. competitiveness, creates good jobs, and makes the U.S. economy more sustainable, resilient, and equitable
- Around \$550 B in new Federal infrastructure investment, including—
  - Largest federal investment in public transit ever
  - Largest federal investment in passenger rail since the creation of Amtrak
  - Largest dedicated bridge investment since the construction of the Interstate System
  - Largest investment in clean drinking water & wastewater infrastructure in U.S. history
  - Largest investment in clean energy transmission & electric vehicle infrastructure in history
  - Ensuring every American has access to reliable high-speed internet
- On average, around 2 million jobs per year

# Includes \$567.1 B (All DOT Modes) Over FY 22-26

Program	Contract Authority (CA) (\$ B, FY 22-26)	Advance appropriations (\$ B, FY 22-26)
Federal Aviation Administration	---	25.0
Federal Highway Administration	303.5	47.3
Federal Motor Carrier Safety Administration	4.5	0.7
Federal Railroad Administration / Amtrak	---	66.0
Federal Transit Administration	69.9	21.3
Maritime Administration	---	2.3
National Highway Traffic Safety Administration	5.1	1.6
Office of the Secretary	---	19.0
Pipeline & Hazardous Materials Safety Admin.	---	1.0
<b>Total</b>	<b>383.0</b>	<b>184.1</b>

Note: Table does not include amounts that BIL authorizes subject to [future] appropriation

# High Points of BIL Highway Provisions

- **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 (GF->HTF) to **keep the HTF Highway Account solvent for years**

# Funding Available to a Range of Recipients

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

Note: This table does not include all BIL programs or eligible entities, and there are additional nuances not represented in this table. Additional programmatic information is provided in later slides. FHWA will administer most, but not all, programs listed.

\* "PA" means a special purpose district or public authority with a transportation function; FLMA means Federal Land Management Agency

# Changes to National Highway Performance Program (NHPP)

Topic	Changes
Program purpose	<p>Adds as an additional program purpose:</p> <ul style="list-style-type: none"><li>• 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</li></ul>
Eligible projects	<p>Adds new eligible projects:</p> <ul style="list-style-type: none"><li>• undergrounding public utility infrastructure carried out in conjunction with an otherwise eligible project</li><li>• resiliency improvements (including protective features) on the NHS</li><li>• activities to protect NHS segments from cybersecurity threats.</li><li>• 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)</li></ul>
Asset management plans	<ul style="list-style-type: none"><li>• Requires consideration of extreme weather and resilience in lifecycle cost and risk management analyses</li></ul>

# Changes to Surface Transportation Block Grant Program (STBG)

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

## [NEW] Rural Surface Transportation Grants (discretionary)

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



# Davis-Bacon and Buy America Provisions

Program/topic	Provisions in the new law
Davis-Bacon (various sections)	<ul style="list-style-type: none"> <li>• Davis-Bacon wage requirements apply for most major highway programs</li> </ul>
Buy America requirements for title 23 projects (§11513)	<ul style="list-style-type: none"> <li>• Buy America waivers for <u>title 23 projects</u> require public notice of proposed waivers, public comment, annual report to Congress</li> </ul>
Buy America requirements for all infrastructure projects receiving Federal assistance (§§70911-70917)	<ul style="list-style-type: none"> <li>• New Buy America requirements apply to <u>all</u> infrastructure projects receiving Federal financial assistance               <ul style="list-style-type: none"> <li>○ Manufacturing processes for iron, steel, construction materials and manufactured products must occur in U.S.</li> <li>○ Cost of components of manufactured products mined, produced, or manufactured in U.S. must be &gt;55% of the cost of all components</li> <li>○ Waivers only if applying requirement is not in the public interest, materials are not available, or meeting requirement would increase overall project cost by &gt;25% (to be reviewed every 5 years)</li> <li>○ Requires Federal agencies to identify “deficient programs” not meeting the new Federal government-wide Buy America requirement</li> </ul> </li> </ul>

# Other Workforce Provisions

Program/topic	Provisions in the new law
<p>Local hiring preference for construction jobs (§25019)</p>	<ul style="list-style-type: none"> <li>• Permits a recipient or subrecipient of funding under title 23 or 49, United States Code to implement a local or other geographical or economic hiring preference relating to the use of labor for construction projects</li> <li>• Requires DOT to submit a Workforce Diversity Report to Congress, followed by a model plan for States, local governments, and private sector entities to use</li> <li>• The report and model plan must address methods to enhance pre-apprenticeship programs, improve transportation workforce diversity, and encourage (sub)recipients to establish outreach and support programs</li> </ul>
<p>Surface transportation workforce development, training, and education (§13007)</p>	<ul style="list-style-type: none"> <li>• Expands eligibility to include a variety of training and employment activities</li> </ul>
<p>Transportation education and training development and deployment program (§13007)</p>	<ul style="list-style-type: none"> <li>• Expands eligibility to State DOTs and partnerships with Federal departments and agencies</li> <li>• Expands program to include implementing new curricula and education programs to provide hands-on career opportunities to meet current and future needs</li> </ul>

# [NEW] Bridge Formula Program

Purpose	Replace, rehabilitate, preserve, protect, and construct bridges on public roads
Funding	\$27.5 B (FY 22-26) in advance appropriations from the GF
Recipients	<ul style="list-style-type: none"> <li>• States (including DC and Puerto Rico)</li> </ul>
Distribution formula	<ul style="list-style-type: none"> <li>• 75% based on relative costs of replacing State's poor condition bridges</li> <li>• 25% based on relative costs of rehabilitating State's fair condition bridges</li> <li>• ...but each State receives at least \$45M per FY (22-26)</li> </ul>
Other key provisions	<ul style="list-style-type: none"> <li>• Benefits for "off-system" (non-Federal-aid highway) bridge projects             <ul style="list-style-type: none"> <li>◦ 15% of funds reserved for such projects</li> <li>◦ 100% Federal share if owned by a local agency or Federally-recognized Tribe</li> </ul> </li> <li>• Sets aside 3% of the funds appropriated for the program for Tribal transportation facility bridges, which shall be administered as if made available under the Tribal Transportation Program</li> </ul>

# [NEW] Bridge Investment Program (discretionary)

Purpose	Improve bridge (and culvert) condition, safety, efficiency, and reliability
Funding	<p>\$12.5 B (FY 22-26), including—</p> <ul style="list-style-type: none"> <li>• \$3.3 B (FY 22-26) in Contract Authority from the HTF; and</li> <li>• \$9.2 B (FY 22-26) in advance appropriations from the GF</li> </ul>
Eligible entities	<ul style="list-style-type: none"> <li>• State</li> <li>• MPO (w/ pop. &gt;200K)</li> <li>• Local government</li> <li>• Special purpose district or public authority with a transportation function</li> <li>• Federal land management agency</li> <li>• Tribal government</li> </ul>
Eligible projects	<ul style="list-style-type: none"> <li>• Project to replace, rehabilitate, preserve or protect one or more bridges on the National Bridge Inventory</li> <li>• Project to replace or rehabilitate culverts to improve flood control and improve habitat connectivity for aquatic species</li> </ul>
Other key provisions	<ul style="list-style-type: none"> <li>• At least 50% of funding reserved for certain large projects; option for multi-year funding agreements</li> <li>• Different process for funding projects ≤\$100 M cost</li> <li>• Sets aside average of \$40M per FY for Tribal transportation bridges</li> </ul>

## South Carolina Funding

Program	FY22	FY23	FY24	FY25	FY26	Total
National Highway Performance Program (NHPP)	\$499,512,119	\$509,502,361	\$519,692,408	\$530,086,256	\$540,687,980	\$2,599,481,124
Surface Transportation Block Grant (STBG)	\$243,005,896	\$247,866,013	\$252,823,334	\$257,879,800	\$263,037,396	\$1,264,612,439
Highway Safety Improvement Program (HSIP)	\$51,836,721	\$52,959,914	\$54,105,572	\$55,274,143	\$56,466,085	\$270,642,435
Railway-Highway Crossings Program (RHCP)	\$4,803,181	\$4,803,181	\$4,803,181	\$4,803,181	\$4,803,181	\$24,015,905
Congestion Mitigation & Air Quality (CMAQ)	\$14,273,216	\$14,558,680	\$14,849,853	\$15,146,851	\$15,449,787	\$74,278,387
Metropolitan Planning	\$4,155,299	\$4,238,404	\$4,323,173	\$4,409,636	\$4,497,829	\$21,624,341
National Highway Freight Program	\$23,222,824	\$23,687,280	\$24,161,026	\$24,644,246	\$25,137,131	\$120,852,507
Carbon Reduction Program (new)	\$21,668,026	\$22,101,386	\$22,543,414	\$22,994,282	\$23,454,168	\$112,761,276
PROTECT Formula Program (new)	\$24,638,098	\$25,130,860	\$25,633,477	\$24,146,147	\$26,669,069	\$128,217,651
<b>Total Apportionment</b>	<b>\$887,115,380</b>	<b>\$904,848,079</b>	<b>\$922,935,438</b>	<b>\$941,384,542</b>	<b>\$960,202,626</b>	<b>\$4,616,486,065</b>

## South Carolina FY 22 Funding

- FY 22 Appropriations Continuing Resolution (CR)
  - 1<sup>st</sup> CR thru October 31, 2021
  - 2<sup>nd</sup> CR thru February 18, 2022
- Appropriated Funding: \$941,978,956
- Obligation Limitation: **\$238,533,793**
- 141/365<sup>ths</sup> or 38.63% of FY21 levels

# BIL Resources

- BIL Home Page
  - <https://www.fhwa.dot.gov/bipartisan-infrastructure-law/>
- Summary
  - <https://www.fhwa.dot.gov/bipartisan-infrastructure-law/summary.cfm>
- Funding
  - <https://www.fhwa.dot.gov/bipartisan-infrastructure-law/funding.cfm>
- Technical Assistance / Local Support
  - [https://www.fhwa.dot.gov/bipartisan-infrastructure-law/technical\\_support.cfm](https://www.fhwa.dot.gov/bipartisan-infrastructure-law/technical_support.cfm)
- Fact Sheets
  - <https://www.transportation.gov/briefing-room/usdot-releases-state-state-fact-sheets-highlighting-benefits-bipartisan>
- Guidance
  - <https://www.fhwa.dot.gov/bipartisan-infrastructure-law/guidance.cfm>

# THANK YOU

---

