

BIPARTISAN INFRASTRUCTURE LAW (BIL)*

Overview of Highway Provisions

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U.S. Department
of Transportation
**Federal Highway
Administration**

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

Introductory Notes

- This presentation:
 - focuses on highway provisions in the BIL
 - provides an overview of significant programs and provisions, but it is not all inclusive
 - does not include programs that BIL authorizes subject to future appropriation
 - includes information on several relevant programs that the Office of the Secretary will administer
- Section (§) references in the presentation refer to BIL sections
- References to “Division J” refer to the appropriations portion of BIL (Title VII relates to the U.S. Department of Transportation)

For more information, please visit the Federal Highway Administration’s BIL website: [fhwa.dot.gov/bipartisan-infrastructure-law](https://www.fhwa.dot.gov/bipartisan-infrastructure-law)

Disclaimer: Except for any statutes or regulations cited, the contents of this presentation do not have the force and effect of law and are not meant to bind the public in any way. This presentation is intended only to provide information regarding existing requirements under the law or agency policies.

BIL HIGHLIGHTS

- Milestones Toward Enactment of BIL
- BIL Goes Beyond Transportation
- Includes \$567.1 B (All DOT Modes) Over FY 22-26
- High Points of BIL Highway Provisions

Milestones Toward Enactment of BIL

Date	Milestone
July 2021	Senators released bipartisan infrastructure framework
August 10, 2021	Senate passed Bipartisan Infrastructure Deal (BIL)
November 5, 2021	House passed BIL
November 15, 2021	President Biden signed BIL into law (Public Law No: 117-58)

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
Total	383.0	184.1

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

High Points of BIL Highway Provisions

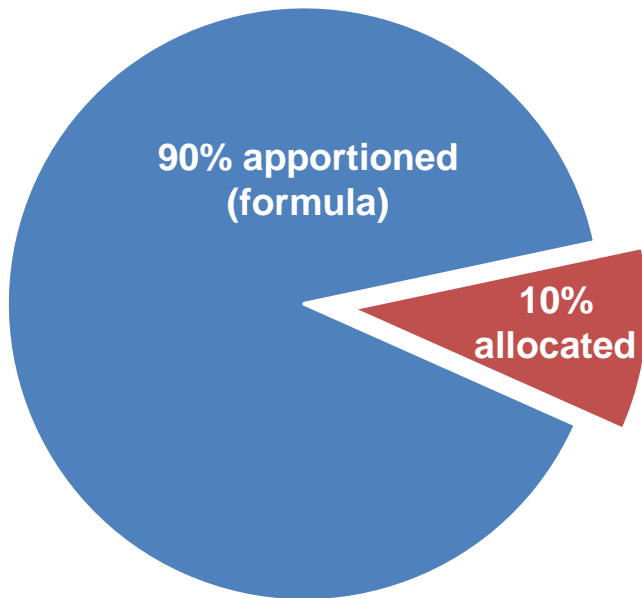
- **Funds highway programs for five years** (FY 22-26)
- **\$350.8 B (FY 22-26) for highway programs**
 - \$303.5 B in Contract Authority (CA) from the Highway Trust Fund (HTF)
 - +\$47.3 B in advance appropriations from the General Fund (GF)
- **More than a dozen new highway programs**, including—
 - **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**

\$350.8 B (FY 22-26) FOR HIGHWAY PROGRAMS

- \$303.5 B in Contract Authority from the HTF
- +\$47.3 B from the General Fund (GF) for “Highway Infrastructure Programs” (HIP)
- Nine Categories of HIP Funding Under BIL (from the GF)
- Funding Available to a Range of Recipients

\$303.5 B in Contract Authority from the HTF

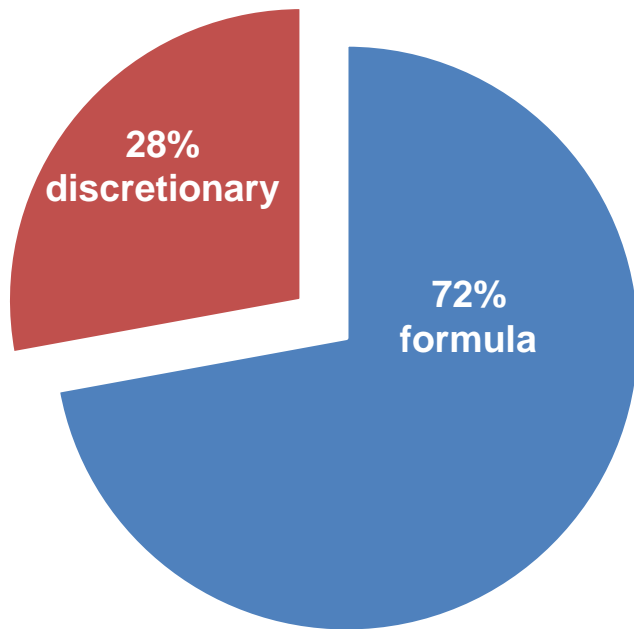
**BIL highway CA,
apportioned vs. allocated**



- Five years of funding (FY 22-26)
- +29% highway CA (avg. annual, FY 22-26) vs. current law (FY 21)
- Mostly (90%) apportioned to States
- All FAST Act highway programs will continue
- ...plus new CA programs (apportioned and allocated)

+\$47.3 B from the General Fund (GF) for “Highway Infrastructure Programs” (HIP)

BIL HIP advance appropriations, formula vs. discretionary



- Majority (72%) distributed by formula
- All provided from the General Fund
- 9 categories of advance appropriations; 6 supplemental to CA

Nine Categories of HIP Funding Under BIL (from the GF)

Total, FY 22-26	Program
\$27.5 B	Bridge Formula Program
\$9.2 B*	Bridge Investment Program (discretionary)
\$5.0 B	National Electric Vehicle Formula Program
\$3.2 B*	INFRA Program
\$1.3 B	Appalachian Development Highway System (ADHS)
\$0.5 B*	Reconnecting Communities Pilot Program
\$0.3 B*	Ferry Boat Program
\$0.2 B*	Reduction of Truck Emissions at Port Facilities
\$0.1 B*	University Transportation Centers (UTCs)

* Supplements CA separately provided by BIL for this program

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	✓	✓	✓	✓	✓	✓	

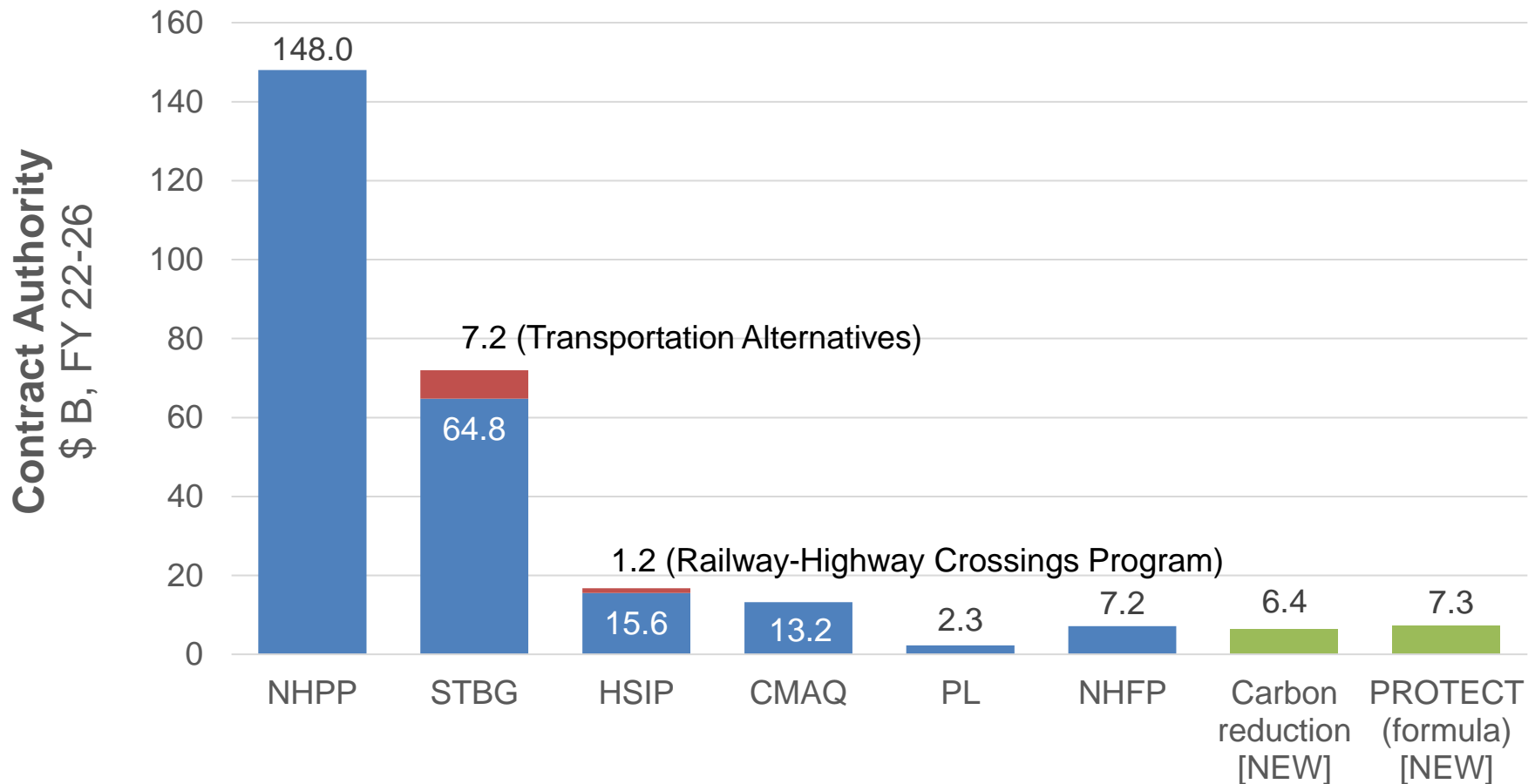
Note: This table does not include all BIL programs or eligible entities, and there are additional nuances not represented in this table. Additional programmatic information is provided in later slides. FHWA will administer most, but not all, programs listed.

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

APPORTIONED HIGHWAY PROGRAMS

- 8 Apportioned CA Programs (Including 2 New)
- Changes to Existing CA Programs (NHPP, STBG, HSIP, CMAQ, and NHFP)

8 Apportioned CA Programs (Including 2 New)



Federal-aid apportioned programs under BIL

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

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

Changes to Highway Safety Improvement Program (HSIP)

Topic	Changes
Eligible projects	<ul style="list-style-type: none">• Adds eligibility ($\leq 10\%$ of HSIP funds) for specified safety projects (including non-infrastructure safety projects related to education, research, enforcement, emergency services, and safe routes to school)• Modifies the HSIP definition of highway safety improvement project by adding or clarifying some project types. Some examples include:<ul style="list-style-type: none">○ railway-highway crossing grade separation projects;○ traffic control devices for pedestrians and bicyclists; and○ roadway improvements that separate motor vehicles from bicycles or pedestrians
Vulnerable road users	<ul style="list-style-type: none">• Requires States to complete vulnerable road user (VRU) safety assessments, taking into consideration a Safe System approach• Adds new special rule for States with total annual VRU fatalities comprising $\geq 15\%$ of total annual crash fatalities in State

[NEW] Safe Streets and Roads for All (discretionary)

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

[NEW] Wildlife Crossings Pilot Program (discretionary)

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

Davis-Bacon and Buy America Provisions

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

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"> • 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 • 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 • 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
<p>Surface transportation workforce development, training, and education (§13007)</p>	<ul style="list-style-type: none"> • Expands eligibility to include a variety of training and employment activities
<p>Transportation education and training development and deployment program (§13007)</p>	<ul style="list-style-type: none"> • Expands eligibility to State DOTs and partnerships with Federal departments and agencies • Expands program to include implementing new curricula and education programs to provide hands-on career opportunities to meet current and future needs

[NEW] Carbon Reduction Program (formula)

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

[NEW] PROTECT* Formula Program

Purpose	Planning, resilience improvements, community resilience and evacuation routes, and at-risk coastal infrastructure
Funding	\$7.3 B (FY 22-26) in Contract Authority from the HTF
Recipients	<ul style="list-style-type: none">• States (including DC)
Distribution formula	<ul style="list-style-type: none">• Apportioned to States by formula
Other key provisions	<ul style="list-style-type: none">• Highway, transit, and certain port projects are eligible• Higher Federal share if the State develops a resilience improvement plan and incorporates it into its long-range transportation plan• Of the amounts apportioned to a State for a fiscal year, the State may use:<ul style="list-style-type: none">○ not more than 40% for construction of new capacity○ not more than 10% for development phase activities

* *The full name of the program is Promoting, Resilient Operations for Transformative, Efficient, and Cost-saving Transportation (PROTECT) program.*

[NEW] PROTECT Grants (discretionary)

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

[NEW] Charging and Fueling Infrastructure (discretionary)

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

[NEW] National Electric Vehicle Formula Program (formula and discretionary*)

Purpose	Strategically deploy electric vehicle (EV) charging infrastructure and establish an interconnected network to facilitate data collection, access, and reliability
Funding	\$5 B (FY 22-26) in advance appropriations from the GF
Recipients	<ul style="list-style-type: none"> States (including DC and Puerto Rico)
Distribution formula	<ul style="list-style-type: none"> Same shares as Federal-aid highway apportionments
Other key provisions	<ul style="list-style-type: none"> Funded projects must be located along designated alt fuel corridors Sets aside 10% of funding for discretionary grants to State and local governments that require additional assistance to strategically deploy EV charging infrastructure State must submit plan to DOT describing planned use of funds If State doesn't submit plan (or carry it out), DOT may withhold or withdraw funds and redistribute within the State, or to other States Establishes DOT-DOE Joint Office of Energy and Transportation Requires DOT to designate national EV charging corridors to support freight and goods movement

* Program sets aside funds for discretionary technical assistance grants; also if DOT withholds or withdraws funding from a State, DOT may award funds to local governments in the same State.

BRIDGES

- Bridge Formula Program
- Bridge Investment Program
- Other Bridge-related Provisions

[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">• States (including DC and Puerto Rico)
Distribution formula	<ul style="list-style-type: none">• 75% based on relative costs of replacing State's poor condition bridges• 25% based on relative costs of rehabilitating State's fair condition bridges• ...but each State receives at least \$45M per FY (22-26)
Other key provisions	<ul style="list-style-type: none">• Benefits for "off-system" (non-Federal-aid highway) bridge projects<ul style="list-style-type: none">◦ 15% of funds reserved for such projects◦ 100% Federal share if owned by a local agency or Federally-recognized Tribe• 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

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

EQUITY

- Reconnecting Communities Pilot Program
- Rural Surface Transportation Grants

[NEW] Reconnecting Communities Pilot Program (discretionary)

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

FOR MORE INFORMATION

- Please visit:
[fhwa.dot.gov/bipartisan-infrastructure-law](https://www.fhwa.dot.gov/bipartisan-infrastructure-law)