



Special Report

S. 2302

America's
Transportation
Infrastructure Act
of 2019

July 31, 2019

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Introduction

The Senate Environment and Public Works Committee (EPW) released a transportation reauthorization bill on July 29, 2019, the *America's Transportation Infrastructure Act of 2019* (S. 2302), to authorize funding and program direction to the U.S. Department of Transportation (DOT) for Fiscal Years (FY) 2021-2025. The next day, on July 30, EPW held a markup to make several additional changes to the bill. EPW passed the bill by a vote of 21-0. The bill is being referred to as the “most substantial highway legislation in history” by the Committee.

S. 2302, which is 510 pages long, includes four titles: (I) Federal-Aid Highways, (II) Transportation Infrastructure Finance and Innovation (TIFIA), (III) Research, Technology and Education, and (IV) Indian Affairs. **This memorandum, which is largely drawn from the bill text and original summary materials released by the Committee, is limited to highlights of sections relevant to local and regional government and several sections under the titles are omitted.** Readers are encouraged to review the index at the beginning of the bill to determine whether there are sections of interest not included in this summary, and to read the actual language of the bill of any sections of significant interest. The complete text of the bill passed by EPW is [here](#) and a section-by-section guide of the original bill (published prior to substitute and amendments) is [here](#).

There is currently no schedule set for the three Senate committees which have jurisdiction over other elements of the surface transportation reauthorization legislation (Banking Committee for mass transit; Commerce Committee for safety and rail; and Finance Committee for revenue provisions). These Committees should move forward on their respective provisions of the package beginning in the fall.

In addition to general provisions and grant program opportunities, we draw your attention to several interesting areas covered by the legislation:

- Resiliency (Secs. 1103, 1105, 1106, 1107): Provisions related to resiliency may provide new opportunities for local governments to move forward with infrastructure projects related to transportation but often funded through other means (e.g., flood control, erosion).
- Autonomous vehicles (Secs. 1512, 1513): While the few sections related to autonomous vehicles focus on studies and safety, it is interesting to see how this bill approaches this area, especially considering failed efforts on autonomous vehicle legislation during the first Session of this Congress.
- New bridge program (Secs. 1101, 1119): \$3.265 billion is included to fund a competitive grant program to assist the repair and replacement of deficient and outdated bridges and ease the national bridge repair backlog. The program requires all projects to use American-made steel and iron.
- Revenue (Secs. 1509, 3001). Language on rescission repeal (Sec. 1509) is attracting attention from several groups including highway users and others; TFG will review the impact of this section further. “Alternative Funding for Highway Trust Fund” (Sec. 3001) authorizes funding for states or groups of states to study the feasibility of a road usage fee or other user-based alternative revenue mechanisms that preserve a user fee structure.
- New mobility impacts (Sec. 3005). Many cities and counties are experiencing the benefits and challenges presented by new modes of mobility rapidly becoming part of the municipal transportation landscape, such as electric scooters and bike share programs. This section of the bill provides funding for DOT to study of the impact of automated vehicles and other modes of new mobility, such as docked and dockless bicycles and electric scooters.

Title I – Federal Aid-Highways

Sec. 1101. Funding Levels. Provides \$287 billion in contract authority from the highway account of the Highway Trust Fund, including but not limited to funding for the following accounts:

- Federal Aid Highway Program (\$47-52 billion annually), including:
 - National Highway Performance Program
 - Surface Transportation Block Grant Program
 - Highway Safety Improvement Program
 - Congestion Mitigation and Air Quality Improvement Program
 - National Highway Freight Program
- Transportation Infrastructure Finance and Innovation Program (\$300 million annually)
- Federal Lands and Tribal Transportation Programs, including:
 - Tribal Transportation Program
 - Federal Lands Transportation
 - Federal Lands Access Program
 - Nationally Significant Freight and Highway Projects (over \$1 billion annually)
 - Bridge Investment Program (\$1.2-1.4 billion annually from HTF and General Fund)
 - Congestion Relief Program (\$40 million annually)
 - Charging and Fueling Infrastructure Grants (\$100-\$300 million annually)
 - PROTECT Grants (rail safety & tank car requirements)
 - Nationally Significant Federal Lands and Tribal Projects (\$150 million annually from HTF and General Fund)
 - Intelligent Transportation Systems Program (\$110 million annually)
 - Pilot Programs, including:
 - Wildlife Crossings
 - Disaster Relief Mobilization
 - Community Connectivity (appears to be similar to prior program known as “TCSP”)

Sec. 1103. Resiliency. Adds definitions for “resilience” (project with ability to anticipate, prepare for, or adapt to conditions or withstand or recover from disruptions) and “natural infrastructure” (infrastructure uses, restores, or emulates natural ecological processes (including managing stormwater runoff and flooding)) to the list of defined terms under Section 101 of Title 23.

Sec. 1105. Resiliency and the National Highway Performance Program and off system project funding opportunity. The National Highway Performance Program (NHPP) would include a focus on measures that increase resiliency to the impacts of sea level rise, extreme weather events, flooding, and other natural disasters, such as earthquakes and rockslides. Allows states to use up to 15 percent of their NHPP funds for protective features to improve resiliency of a federal-aid highway or bridge *off* the National Highway System.

Sec. 1106. Emergency relief. Includes wildfire and sea level rise and allows the use of Emergency Relief (ER) program funds on protective features to improve resiliency including: raising roadway grades, relocating roads in floodplains to higher ground, stabilizing slide areas and slopes, installing riprap, lengthening or raising bridges to increase waterway openings, deepening channels, improving drainage, replacing or upsizing

culverts, installing seismic monitoring on bridges, use of natural infrastructure to mitigate the risk of storms and flooding, or other features.

Sec. 1107. Resiliency and federal share payable. Allows up to 100 percent federal funding for a project to add protective features to improve resiliency on a federal-aid highway or bridge project if such a protective feature is an improvement designed to mitigate the risk of recurring damage or the cost of future repair from extreme weather events, flooding, and other natural disasters.

Sec. 1109. Surface transportation block grant (STBG) program – urban and rural. Maintains the FY2020 amount (55 percent) of STBG funding that is sub-allocated to metropolitan areas. Increases the Transportation Alternatives Program (TAP) set-aside and suballocation amounts and provides small communities greater access to TAP funding. Adds new eligibilities to STBG including construction of wildlife crossing structures, rural barge landing, dock, and waterfront infrastructure projects, and the construction of certain privately or majority privately owned ferry boats and terminals.

Sec. 1110. INFRA (Nationally Significant Freight and Highway Projects (NSFHP)). Raises the cap on eligible multimodal projects to 30 percent of program funds. Requires that a portion of funds go toward certain critical rural and urban state projects. Increases the minimum amount (from 10 percent to 15 percent) for small projects, increases the federal share allowable for small projects, and requires that not less than 30 percent of funds reserved for small projects be used for certain projects in rural areas. Adds new consideration of freight resilience. Creates new set-aside of \$150 million per year of NSFHP funds for a pilot program to encourage applicants to expand their non-federal share of project costs. Also expands the program's transparency requirements. This bill authorizes a total of \$5.5 billion in dedicated funding from the Highway Trust Fund for fiscal years 2021 through 2025.

Sec. 1111. Highway safety improvement program (HSIP). Includes leading pedestrian intervals as an eligible highway safety improvement project (leading pedestrian intervals are traffic signals that allow pedestrians to begin walking slightly prior to the green light for vehicles, which improves pedestrian safety).

Sec. 1115. Congestion mitigation and air quality improvement program (CMAQ). Adds flexibility to CMAQ by allowing States to spend up to 10 percent of CMAQ funds on certain lock and dam modernization or rehabilitation projects and certain marine highway corridor, connector, or crossings projects. Also clarifies that certain CMAQ-eligible operating costs are not subject to a time limitation or phase-out requirement and expands operating assistance eligibility to transit systems outside of large urbanized areas.

Sec. 1119. New Bridge Investment Program. Creates a new grant program to assist state, local, and tribal entities to rehabilitate or replace structurally deficient bridges. Authorizes \$3.3 billion in dedicated funding from the Highway Trust Fund for fiscal years 2021 through 2025 and an additional \$3.3 billion authorized for appropriations for fiscal years 2021 through 2025.

Sec. 1120. Safe Routes to School Program – High School. Applies the program through 12th grade to enable and encourage high school students to walk and bike to school safely.

Sec. 1124. Bicyclist and Pedestrian Safety Incentive Programs. Provides supplemental formula and competitive grant funds to States and urbanized areas to expand and incentivize investments in transportation safety projects. Requires areas with high rates of fatalities for nonmotorized road users to focus investments on improvements to bicyclist and pedestrian safety. Authorizes \$500 million and \$100 million per year from the Highway Trust Fund for formula and competitive grants, respectively, for fiscal years 2021 through 2025.

Sec. 1125. Wildlife Crossing Safety. Establishes a 5-year, \$250 million wildlife crossing pilot program to provide grants for projects designed to reduce wildlife-vehicle collisions and improve habitat connectivity.

Subtitle B – Planning and Performance Management

Sec. 1201. MPO representation and public participation. Adds the following consideration for metropolitan transportation planning requirements: “the metropolitan planning organization shall consider the equitable and proportional representation of the population of the metropolitan planning area.” This section encourages MPOs to use social media and other web-based tools to encourage public participation in the transportation planning process.

Sec. 1202. Fiscal constraint on long-range transportation plans. Currently, Long Range Transportation Plans are required to be fiscally constrained, e.g. limited to transportation projects that could be completed with the level of funding that is reasonably expected to be available. This provision eliminates that requirement for the years of the 20-year planning horizon that are beyond the first 4 years.

Sec. 1205. Prioritization Process Pilot Program. Establishes a pilot program to support data-driven approaches to transportation planning.

Sec. 1208. Complete Streets. Establishes a program to increase the funds available for planning Complete Streets, active transportation networks, transit access, and other safe and accessible options for multiple travel modes.

Subtitle C – Project Delivery and Process Improvement

Sec. 1301. Efficient environmental reviews for project decision making and One Federal Decision. Provides new environmental review procedures and requirements for major infrastructure projects and requires the lead federal agency to develop a 2-year schedule (to completion) for a major infrastructure project.

Sec. 1310. Department of Transportation reports and environmental review. Requires DOT to report on median time for the completion of environmental reviews and any new categorical exclusions applicable to highway projects. The report must list all regulatory requirements that have been removed or reduced, including, if available, a summary of cost savings to states, Tribes, local government, and the public. Also requires the report to contain information, to the extent it is available, on the median time to complete environmental reviews and a summary of costs savings, if available, to states, Tribes, local government, and the public, resulting from the removal or reduction of regulatory requirements.

Subtitle D – Climate Change

Sec. 1401. Grants for charging and fueling infrastructure. Establishes a competitive grant program to strategically deploy alternative fuel vehicle charging and fueling infrastructure along designated alternative fuel corridors that will be accessible to all drivers of electric, hydrogen, and natural gas vehicles (\$1 billion over five years).

Sec. 1402. Grants for reduction of truck emissions at port facilities. Creates a new grant program to reduce idling and emissions at port facilities, including port electrification projects (\$370 million over five years).

Sec. 1403. Grants for Carbon Reduction Incentive Program. Provides supplemental formula and competitive grant funds to states to expand investment in transportation improvements designed to reduce on-road mobile sources of carbon, and to incentivize planning and investments to reduce carbon emissions (\$3.5 billion over five years).

Sec. 1404. Grants for Congestion Relief Program. Provides competitive grants to states and local governments to advance innovative, integrated, and multimodal solutions to congestion relief in the most congested metropolitan areas (\$1 billion over five years).

Sec. 1405. Freight plans and the environment. Adds new strategies for inclusion within the national freight strategic plan, including strategies to promote resilience, national economic growth and competitiveness, and strategies to reduce local air pollution and water runoff.

Sec. 1407. Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation (PROTECT) grant program. Establishes a supplemental formula and competitive grant program to help states improve the resiliency of transportation infrastructure (approximately \$1 billion annually for five years for formula and competitive grants).

Sec. 1408. DERA. Extends the authorization of the Diesel Emissions Reduction Act (DERA) program through fiscal year 2024.

Subtitle E – Miscellaneous

Sec. 1502. Grants - Stopping threats on pedestrians. Establishes a grant program to provide assistance to local government entities for bollard installation projects designed to prevent pedestrian injuries and acts of terrorism in areas used by large numbers of pedestrians (\$25 million over five years).

Sec. 1505. Grants for local community disaster relief mobilization pilot program. Pilot grants to local communities to develop disaster preparedness and disaster response plans that include the use of bicycles (\$25 million over five years).

Sec. 1508. Planning grants - community connectivity pilot program. Pilot program for planning funds to study the feasibility and impacts of removing transportation facilities that create barriers to mobility, access, or economic development, and for construction funds to carry out a project to remove an eligible facility and replace it with a new facility (\$600 million over five years).

Sec. 1509. Repeal of rescission. Repeals the \$7,569,000,000 rescission in federal-aid Highway Program contract authority contained within Section 1438 of the Fixing America's Surface Transportation (FAST) Act.

Sec. 1511. Cybersecurity. Requires FHWA to develop a tool to assist transportation authorities in identifying, detecting, protecting against, responding to, and recovering from cyber incidents. Requires FHWA to designate an office as a "cyber coordinator" for monitoring, alerting, and advising transportation authorities of cyber incidents.

Sec. 1512. Autonomous Vehicles (roadway infrastructure). Directs a study to identify specific immediate and long-term types of upgrades necessary to benefit the largest segment of road users, autonomous vehicles, and automated driving system, as well as to examine how to best achieve roadway infrastructure uniformity to facilitate the safe deployment of autonomous vehicles and automated driving systems.

Sec. 1513. Autonomous Vehicles (vehicle-to-infrastructure communication technology).

Directs a study to identify immediate and long-term safety benefits of vehicle-to-infrastructure connectivity technologies and technologies that would allow motor vehicles and roadway infrastructure to communicate using dedicated short-range communications (DSRC) and related safety applications.

Sec. 1522. Permeable pavements study. Requires the Secretary to conduct a study on the effects of permeable pavements on flood control.

Sec. 1523. Resilience - emergency relief projects. Requires the Secretary to revise the emergency relief manual of FHWA to include a definition of resilience, identify procedures that may be used to incorporate resilience into ER projects, encourage the use of Complete Streets design principles in ER projects, develop best practices for improving the use of resilience in ER projects, and develop and implement a process to track the consideration of resilience as part of the ER program, and track the costs of ER projects.

Title II – Transportation Infrastructure Finance and Innovation (TIFIA)

Sec. 2001. Increase utilization. Updates the TIFIA program to increase utilization, streamline the application process, and increase transparency in the vetting process for projects seeking TIFIA funds. Expands program eligibility to airport projects and additional transit-oriented development projects, subject to a cap and sunset. Extends the authorization of State Infrastructure Bank program through fiscal year 2025.

Title III – Research, Technology, and Education

Sec. 3001. Alternative funding for Highway Trust Fund. Funds testing by states and groups of states regarding the feasibility of a road usage fee or other user-based alternative revenue mechanisms that preserve a user fee structure to maintain the long-term solvency of the Highway Trust Fund. Builds upon the pilot program authorized in the FAST Act and strengthens the program objectives to ensure projects test solutions for the collection, privacy, and security of data for the purposes of implementing a user-based alternative revenue mechanism.

Sec. 3002. MPOs - performance management data support program. Extends the authorization and provides a funding source for FHWA to develop, use, and maintain data sets and data analysis tools to assist metropolitan planning organizations (MPOs) and states in carrying out performance management analyses and requirements.

Sec. 3003. Data integration pilot program. Authorizes a pilot program to research and develop models that integrate real-time information, including weather conditions, roadway conditions, and information from emergency responders.

Sec. 3004. Emerging technology research pilot program. Establishes a pilot program to conduct emerging technology research, specifically including advanced and additive manufacturing (3-D printing) technologies, as well as research into activities to reduce the impact of automated driving systems and advanced driver automation systems technologies on pavement and infrastructure performance, as well as improve transportation infrastructure design. Authorizes \$5 million per year for each of fiscal years 2021 through 2025 to support the pilot program.

Sec. 3005. New mobility impacts. This section, in part, funds the study of the impact of automated vehicles and new mobility, such as docked and dockless bicycles and electric scooters.