NACo LEGISLATIVE ANALYSIS:

H.R. 3684, the Investing in a New Vision for the Environment and Surface Transportation (INVEST) in America Act

NATIONAL ASSOCIATION of COUNTIES NACo

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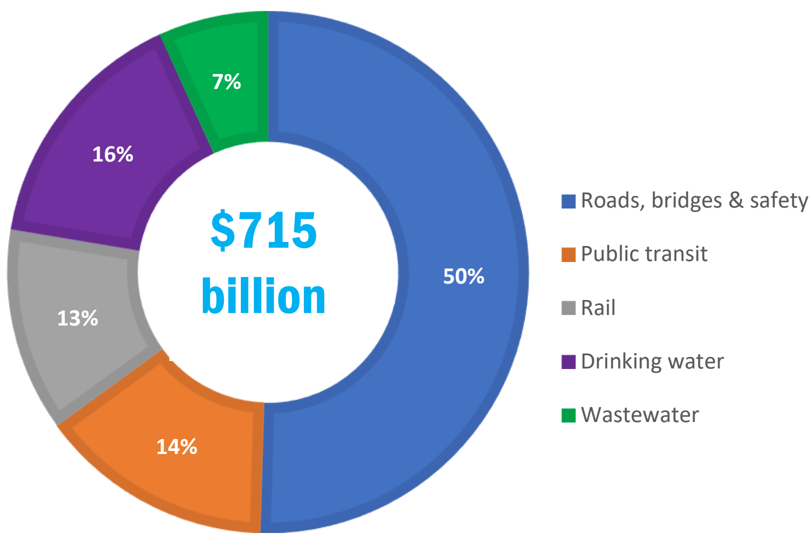
Legislative Analysis: H.R. 3684, the *Investing in a New Vision for the Environment and Surface Transportation (INVEST) in America Act*

OVERVIEW

Click to jump to division.

****Note:** Only divisions A—D; G; O; and P are included in this analysis.*



- **Division A:** Extension of FY 2021 highway and transit authorization levels through FY 2022
- **Division B:** FY 2023 – FY 2026 reauthorization of Federal Highway Administration & Federal Transit Administration programs
- **Division C:** FY 2022 – FY 2026 reauthorization of Pipeline and Hazardous Materials Safety Administration programs
- **Division D:** FY 2022 – FY 2026 reauthorization of Federal Railroad Administration programs
- **Division E:** FY 2022 – 2026 reauthorization of sport fishing and recreational boating programs
- **Division F:** Auto safety provisions
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- **Division K:** Wildlife Corridors Conservation Act
- **Division L:** Community Resilience and Restoration Funds
- **Division M:** Clean energy provisions
- **Division N:** Centers of Excellence for Maritime Workforce Training
- **Division O:** NEPA task force
- **Division P:** Electric vehicle deployment

SECTION-BY-SECTION ANALYSIS

DIVISION A—*Federal Surface Transportation Programs for FY 2022*

Sections 101—107

Extends FY 2021 USDOT funding levels for highways and transit programs through FY 2022.

FY 2021 authorization levels for highway ($43.37 billion) and transit ($10.25 billion) programs would be extended through FY 2022. FY 2021 levels are actually FY 2020 levels, representing the fifth and final year of the FAST Act.

The FAST Act was extended through FY 2021 by P.L. 116-260 following the law's initial expiration on September 30, 2020.

Provides $5.7 billion for member designated projects (earmarks) in FY 2022.

State departments of transportation would receive the majority in contract authority and matching obligation authority from the Highway Trust Fund (HTF), to carry out "member designated projects", or earmarks. The funds would remain available until expended. If at least 10 percent of funding for a project was not obligated by FY 2025, the state could apply to transfer those funds to other projects in the same area.

Due to Division A's extension of FY 2021 FAST Act authorization levels, earmarks would not represent new spending but rather come from a state's share of apportioned formula funds. In other words, no new taxpayer money would be utilized to fund earmarked projects.

Authorizes $3.25 billion for Capital Investment Grants (CIG) in FY 2022.

Local public transit agencies can apply directly to USDOT for these competitive grants to carry out capital projects that establish new fixed route systems or those that are corridor-based and increase capacity by at least 10 percent in systems are already at capacity or are projected to be within five years. The federal government would be required to pay the entire cost of carrying out a contract under this provision.

Authorizes $1 billion for the new All Stations Accessibility Program in FY 2022.

Counties who operate a transit system in service before July 26, 1990, could apply directly to USDOT through this new competitive grant program to finance capital upgrades at public transit facilities that are, either fully or in part, inaccessible by individuals with disabilities. Eligible projects would include planning activities and repairing, rehabilitating, or relocating physical infrastructure. Awards would be subject to the requirements of Urban Area Formula Grants, though the federal share would be 90 percent.

To address transit deserts, grants could also be made under this section to counties who operate or plan to operate bus systems in urbanized areas with a population of more than 100,000, where fewer than 45,000 fixed route bus vehicle revenue miles per square mile are operated. Counties could carry out projects that establish or enhance bus routes that are 20 minutes or less and run for at least 18 hours a day in non-serviced communities or that establish or increase express lane bus transit service that connects underserved communities to jobs and other essential destinations. Eligible costs would include:

- Bus procurement
- Construction of bus stations and related infrastructure
- Construction or expansion of maintenance facilities
- Maintenance activities necessary to support new service

- Operating expenses for up to two years from the first day of the system's revenue service

The federal share of net projects costs would be 80 percent and of net operating costs, 50 percent.

Awards would also be subject to Urban Area Formula Grant requirements and any newly established or enhanced service would be required to operate for at least five years. USDOT would be required, to the extent practicable, to ensure that 40 percent of awards are directed toward disadvantaged communities. Amounts would remain available for two years following the year of award and any unobligated amounts remaining at the end of those two years could be made available for other eligible projects.

Raises the cap on Nationally Significant Freight and Highway Project (INFRA) grants for FY 2022.

The grant cap for multimodal projects would increase from $600 million to $700 million in FY 2022.

DIVISION B— *Surface Transportation*

TITLE I— *FEDERAL-AID HIGHWAYS*

Subtitle A— *Authorizations & Program Conditions*

Sections 1101—1119

Note: *Division B would authorize funding for four years from FY 2023 to FY 2026. FY 2023 is the first year of the Act's new programs. Funding totals are shown over five years unless otherwise noted.*

Authorizes $283.93 billion in Highway Trust Fund (HTF) contract authority for federal highways from FY 2022 through FY 2026. **| Increase of $76.5 million from current law over five years | Increase of $10.8 billion from STRA-21**

HTF contract authority would be authorized at the following levels for federal highways:

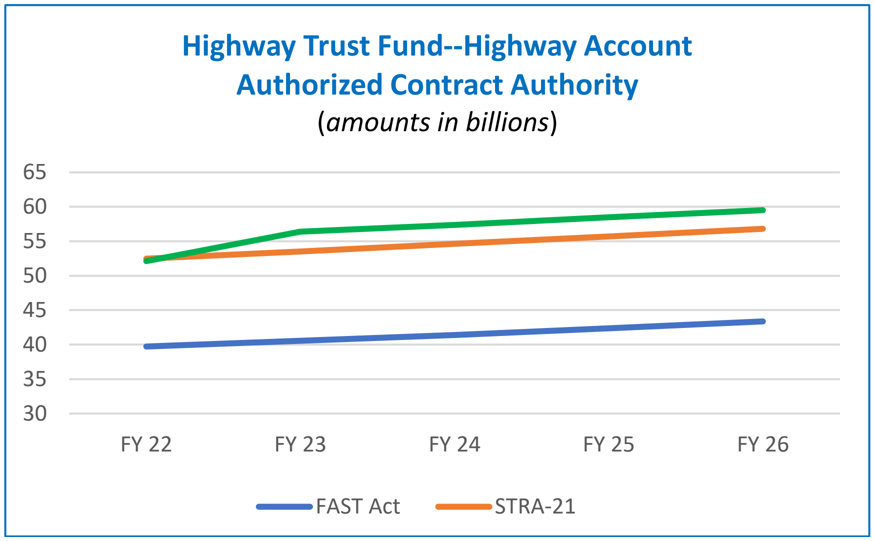
- **$52.12 billion** in FY 2022 (FY 2021 extension from Division A + earmarks)
- **$56.42 billion** in FY 2023 (new INVEST highway/transit programs begin)
- **$57.38 billion** in FY 2024
- **$58.49 billion** in FY 2025
- **$59.51 billion** in FY 2026

These funds would be apportioned to state departments of transportation through ten federal-aid highway programs, including three new programs:

PROGRAM	5-YEAR TOTAL
• Carbon Pollution Reduction Program – NEW	$8.34 billion
• Congestion Mitigation and Air Quality Improvement Program (CMAQ)	$14.48 billion
• Clean Corridors Program – NEW	$3.6 billion
• Highway Safety Improvement Program (HSIP)	$15.46 billion
• Metropolitan Planning	$2.44 billion
• National Highway Freight Program (NHFP)	$8.62 billion
• National Highway Performance Program (NHPP)	$140.57 billion
• Pre-disaster Mitigation Program – NEW	$6.25 billion
• Railway-Highway Crossing Program (RHCP/Section 130)	$1.225 billion
• Surface Transportation Program (STP)	$65.32 billion

HIGHWAY TRUST FUND FORMULA APPORTIONMENTS OVER FIVE YEARS

FAST Act (P.L. 114-94)	STRA-21 (S. 1931)	INVEST (H.R. 3684)
$207.43 billion	$273.13 billion	$283.93 billion



Decreases TIFIA funding. **| $1.3 billion over five years | Decrease of $135 million from current law**

$250 million would be provided annually for the Transportation Infrastructure Finance and Innovation Act (TIFIA) loan program from FY 2023 – FY 2026. $300 million would be provided for FY 2022 through the Division A extension, for a total of $1.3 billion over five years.

Improves transparency for state suballocation decisions.

USDOT would be required to compile and make publicly available data including project locations and costs, federal funding share and population of the awarded area. USDOT would be further required to produce an interactive map of the data, which would also show state data that could impact counties, including:

- Amount of funding available for obligation, including unobligated balances, at the beginning of the FY
- Amount of funding actually obligated during the FY
- Among of funding remaining for obligation at the end of the FY

Creates new reporting requirements for states to participate in funding swaps with local governments.

States would be required to certify that local governments seeking to exchange federal funds for state funds have prevailing wage requirements. In the case that funds would be used as part of a public-private partnership (P3), states would also need to include a detailed financial analysis that demonstrates how the P3 was the best use of funds.

Creates new reporting requirements for megaprojects.

Defined as projects costing $2 billion or more, "megaproject" sponsors would be required to submit a Comprehensive Risk Management Plan to USDOT containing the following:

- Process description that identifies real and potential obstacles that could result in cost increases, delays or other reductions in benefits of the project
- Mechanisms used to track risks
- Plan to mitigate the risks
- Assurances as determined by USDOT, such as the regular submission of updated cost estimates

A recipient of funds for these projects would additionally be required to establish a peer review group consisting of at least five individuals to provide expert advice on the "scientific, technical, and project management aspects" of the project. Among other responsibilities, the group would be required to submit a report to USDOT no later than 90 days after its establishment on elements of the project, including its scope, schedule and budget.

Allows counties to determine local roadway design with state approval.

Counties and other local jurisdictions could select the most appropriate roadway design if the local jurisdiction provides notification and justification to the state and the design complies with federal and state laws. If the state rejected the design, the local jurisdiction could appeal to the USDOT for approval or denial within 90 days.

In STRA-21, a local jurisdiction would only be required to use a FHWA-approved design, not appeal to the state for approval.

Requires states to suballocate Transportation Alternatives Program (TAP).

A state could not transfer TAP funds to other highway programs before carrying out a competitive process for local governments. Under current law, a state may transfer up to 50 percent of its TAP funds to the NHPP, NHFP, STBGP, HSIP or CMAQ.

This section would also prevent a state from transferring Section 130 funds unless it can demonstrate that protective devices have been installed at all at-grade rail-highway crossings.

Impacts construction costs with new Buy America (BA) requirements.

"Construction materials" would become a covered term under BA requirements, which would require local governments using federal funds for capital projects to ensure that the raw materials making up a finished product, such as asphalt, originate in America. An entity could apply to USDOT for a waiver; however, the Department would become subject to a variety of reporting requirements prior to issuing a determination, including a public comment period and detailed justification outlining the decision.

Extends state authority for categorical exclusions.

The term for states who have assumed the responsibility of applying CEs for at least ten years would increase from three to five years.

Subtitle B—Programmatic Infrastructure Investment

Sections 1201—1219

***Creates new pre-disaster mitigation program* | $6.25 billion over five years**

A new formula program for states to mitigate disaster risks, including by using natural infrastructure or the construction of other protective features, to relocate assets repeatedly damaged by disasters or to address other vulnerabilities, would be created.

Extends period for counties to carry out FHWA and FTA emergency relief (ER) projects.

The period that state and local governments who are in receipt of FHWA ER and Public Transit ER funds would have to begin construction would increase from two years to six years. Wildfires would also become an explicit eligible use of these funds.

Increases suballocations for counties through the Surface Transportation Program (STP).

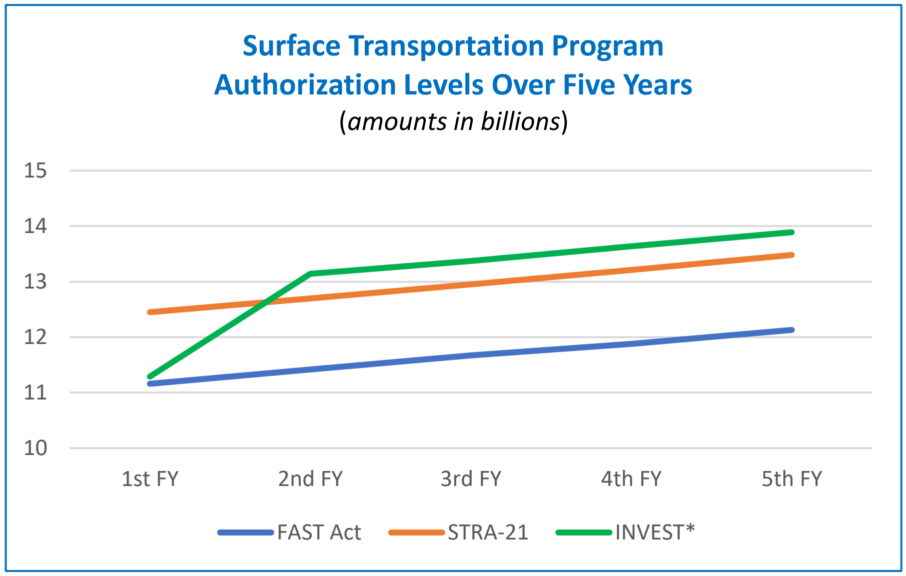
The Surface Transportation Block Grant Program would be renamed STP, as it was prior to the FAST Act. The share that a state must suballocate local governments based on population would increase five percent over five years from 55 percent in current law to 60 percent by the end of the bill, beginning with a 2 percent increase in FY 2023.

INVEST STP AUTHORIZATION & SUBALLOCATION LEVELS OVER FIVE YEARS
(suballocation amounts are estimates after TAP and SPR set-asides)

FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
$11.29 billion	$13.14 billion	$13.37 billion	$13.64 billion	$13.88 billion
x 55% =	x 57% =	x 58% =	x 59% =	x 60% =
$5.46 billion	$6.60 billion	$6.82 billion	$7.08 billion	$7.33 billion

Other changes would include:

- Adds a fourth population band for communities between 50,000 – 200,000
- Creates a new technical assistance program for counties over 200,000 to facilitate project delivery
- Requires states, to the extent practicable, to provide MPOs an estimate of how much obligation authority will be available for that fiscal year



**After new 10 percent TAP set-aside proposed in INVEST.*

Increases the off-system bridge set-aside **| $4.92 billion over five years | $1.04 billion increase over current law | $255 million less than STRA-21**

Within STP, the set-aside would increase from 15 percent to 20 percent of a state's FY 2009 share of the no-longer-existent Highway Bridge Program, resulting in $1.035 billion annually, and low-water crossings would become eligible.

Increases funding for counties to carry out transportation alternatives projects **| $6.85 billion over five years | $2.63 billion increase over current law | $335 million less than STRA-21**

Within STP, funding for the Transportation Alternatives Program (TAP) would increase by becoming 10 percent of the entire STP, as opposed to the flat spending level of $850 million set in current law, which would allow TAP funding to grow annually with the overall program. Other significant changes to TAP would include:

- Increasing the percentage states are required to suballocate to local governments based on population from 50 percent to 66 percent
- Providing an option for states to suballocate up to 100 percent of TAP funds
- Prohibiting states from transferring TAP funds to other highway programs without first demonstrating there were no suitable needs among subrecipients
- Providing eligibility for MPOs serving areas less than 200,000

Counties could use these 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 other eligibilities.

STRA-21 would also change TAP to a ten percent set-aside of STP and allow for an up to 100 percent suballocation to local governments; however, it would adjust the suballocation amount from 50 percent to 59 percent, as opposed to 66 percent in INVEST. S. 1931 would still provide more TAP funds over the full life of the bill because of INVEST's one-year extension in Division A.

Expands population threshold for STP Special Rule eligibility.

The population threshold for eligibility under the STP Special Rule would increase from 5,000 to 50,000 and make rural minor collectors, local roads and critical rural freight corridors eligible for funding.

Under current law, the rule permits a state to spend up to 15 percent of its STP funds in these areas on roads functionally classified as minor collectors.

Codifies Safe Routes to School, expands eligibility to high schools.

Certain elements of the Safe Routes to School Program would be codified. States could obligate TAP or HSIP funds to a county to carry out eligible projects that improve the ability of students to walk and bike to school, including sidewalk improvements, speed reductions, pedestrian crossings, bike parking facilities and traffic diversion improvements near schools, at a 100 percent federal cost share. Funds could also be used for public awareness and other educational campaigns.

The eligibility of the program would be expanded to include high schools in addition to primary and middle. To be eligible, a project must be located on any public road, path or trail within roughly two miles of a school.

Requires local consultation on safety assessments.

States would be required to consult with local partners to develop vulnerable road user safety assessments as an element of state highway safety plans. Vulnerable road users would include bicyclists and pedestrians, with the goal of identifying high risk corridors and installing appropriate safety countermeasures along these routes.

A "safe system approach" for roadway designs would be established, defined as one that minimizes the risk of injury or death to all road users by considering the likelihood of human error, the tolerance of the human body to withstand impacts and vulnerable users of the road.

Creates new Safe Streets for All Program for local governments and MPOs. |
$2 billion over four years

Funded through a $500 million annual set-aside within the Highway Safety Improvement Program for FY 2023 – FY 2026, Safe Streets for All would seek to improve the safety of vulnerable road users. States would be required to suballocate 100 percent of funds to local governments based on population in the same manner STP funds are suballocated. Counties could use these funds to carry out Complete Streets projects, implement Vision Zero plans and other activities related to improving the safety of vulnerable road users.

Weakens the High-Risk Rural Road (HRRR) Special Rule for rural counties.

Under current law, a state must obligate 200 percent of its FY 2009 HRRR set-aside (MAP-21 changed the set-aside to a special rule) to address fatalities on rural roads with significant safety risks that have been identified in state highway safety plans in the same fiscal year that the rule is triggered. If a state cannot meet this requirement, it must obligate any remaining amount in the following fiscal year.

INVEST would amend the HRRR special rule to provide states greater flexibility, potentially at the expense of driver safety. A state where, following the most recent two-year period for which data is available, the rate of fatalities exceeds the median fatality rate for rural roads among all states, to obligate 7.5 percent of its FY 2020 HSIP apportionment to address the HRRR. Instead of obligating funds in the first year, states would have up to the following two fiscal years after the year in which it is triggered to obligate these funds.

USDOT would be required to update its study and best practices on HRRRs no later than two years after the date of enactment.

Based on the HRRR, a similar rule would be established to address the needs of vulnerable transportation users, including pedestrians and cyclists, in a state where following the most recent two-year period for which data is available, the rate of injuries and fatalities exceeds the median injury and fatality rates among all states. Should this rule be triggered, a state would be required to obligate 50 percent of the TAP set-aside within STP for FY 2020, which is $850 million.

Counties support programs that target the rehabilitation of critical elements of the transportation system in our aging regions and communities, including high-risk rural roads.

Subtitle C, Project-Level Investments

Sections 1301—1319

This subtitle would create new grant programs beginning in FY 2023 that counties could apply for directly through USDOT to carry out a variety of eligible activities. Eligible costs for each of the new programs would include the following:

- Development phase activities, including planning, feasibility studies, financial analysis, environmental reviews, preliminary engineering and design and other preconstruction activities
- Real property procurement, including land related to the projects and improvements to the land and equipment
- Capital construction projects, including reconstruction and rehabilitation
- Environmental mitigation

PROGRAM	4-YEAR FUNDING LEVEL	ELIGIBLE PROJECTS	ADDITIONAL PROVISIONS
Projects of National and Regional Significance Program – NEW	$12 billion ($1 billion bridge investment set-aside for large projects)	- Highway bridge projects - Public transit - Freight rail and intermodal projects	- Award recipients could enter into multiyear grant agreements to carry out large projects. - 60% federal share with ability to use other federal assistance for up to 80%
Community Transportation Investment	$2.4 billion	Any public transit project eligible under [49 U.S.C. Chapter 53]	- Not less than 25% of funds would be for projects in rural areas (any non- urbanized area)

Grant Program – NEW			- Not less than 25% of funds would be for urbanized areas (UZAs) between 50k – 200k
Community Climate Innovation Grants – NEW	$1 billion	- Projects eligible under 49 U.S.C. Chapter 53 that also have the potential to significantly reduce greenhouse gases	No funds could be used to add a single occupancy vehicle lane.
Gridlock Reduction Grant Program – NEW *Only counties serving a statistical area of 1.3 million and above would be eligible.	$2 billion (50% set-aside for freight projects)	- Projects that significantly reduce congestion and related impacts (including transportation alternative projects)	- 60% federal share with ability to use other federal assistance for up to 80% - Awards would be no more than $50 million, no less than $10 million. - Preference would be given to communities with heavy, recurrent congestion.
Parking for Commercial Vehicles – NEW	$1 billion	- Capital construction projects that provide heavy truck parking or other rest areas for commercial vehicle operators, such as highway turnouts	- Encourages the use of public-private partnerships
Active Connected Transportation Grant Program – NEW	$1 billion	- Projects with a cost between $100,000 and $15 million that improve connectivity and the use of active transportation	-No less than 30% would be to construct active transportation networks - No less than 30% would be to construct active transportation connectors
Rebuild Rural Bridge Program – NEW	$1 billion ($10 million set-aside for certain border communities	- Projects to inspect, replace, rehabilitate or preserve an off-system bridge; Tribal bridge; or a bridge in poor	- 60% federal share with ability to use other federal assistance for up to 80% - Federal share may be up to 100%

*Eligible project costs also include bridge inspection, evaluation and preservation projects	without adequate drinking and wastewater infrastructure)	condition in a rural area	- Rural defined as any non-UZA
Reconnecting Neighborhoods Program	$3 billion	- Planning Grants: feasibility studies, financial analyses, public engagement, etc.; may also provide technical assistance - Capital Construction Grants: removal, retrofit, remediation or replacement of an eligible facility, which may include a limited access highway; railway; viaduct; principal arterial; or any other transportation facility that creates an obstacle to connectivity	- 80% federal share - Award would be no less than $5 million

Subtitle D, Planning, Performance Management, & Asset Management

Sections 1401–1405

Revises requirements for Metropolitan Planning Organizations (MPOs) for highway and transit projects.

MPOs would be required to consider carbon emissions and climate change as part of the transportation planning process. It would require newly designated or redesignated MPOs to ensure its makeup reflects an "equitable and proportional representation of the population" being represented.

Creates intergovernmental working group to evaluate national system performance.

USDOT would be required to establish a new working group, within 120 days of the bill's enactment, to evaluate progress toward national performance goals and measures. The working group would be comprised of counties and other local governments, state and federal partners and additional public and private stakeholders. The group would be tasked with submitting a report to Congress no later than one year following the establishment of the group with recommendations around establishing measures that states and MPOs could use to assess the level of access to transportation systems for individuals to various modes of travel.

USDOT would subsequently be required to promulgate rulemaking based on these recommendations no later than two years after the submission of the report by the working group, at which time the group would terminate.

Subtitle F, Additional Provisions

Sections 1601–1639

Creates "dig once" requirement for broadband deployment along rights-of-way, requires local consultation.

States would be required to establish a process for a broadband provider to commit to installing broadband infrastructure as part of any project to construct or reconstruct a highway. USDOT would be required to consult with local governments responsible for rights-of-way, utilities, telecommunications and broadband, in addition to other public and private stakeholders, in implementing this requirement.

Requires consultation with local governments on highway formula apportionment study.

USDOT, in consultation with state and local governments, would be required to conduct a study of how federal-aid highway dollars are currently apportioned through 23 U.S.C. 104 and make subsequent recommendations around improvements in a report to Congress no later two years after the bill's enactment.

Creates intergovernmental working group to examine availability of certain construction materials.

USDOT would be required to establish a working group of state, local and tribal officials and other public and private transportation industry stakeholders to assess the use, availability and challenges of covered resources – defined in the legislation as "common variety materials used in transportation infrastructure construction and maintenance, including stone, sand, and gravel" – in federally funded transportation projects. Not later than two years after the group is established, it would be required to submit findings and recommendations on how to reduce costs and environmental impacts on the transportation construction supply chain to USDOT, who would subsequently be required to submit a report with the recommendations to Congress no later than three months after receiving the group's assessments.

Updates guidance on evacuation routes and submerged roads for local governments.

The Federal Highway Administration (FHWA), in coordination with the Federal Emergency Management Agency (FEMA), would be required to revise existing or issue new guidance on the design, construction, maintenance, retrofit and repair of evacuation routes that are part of the National Highway System. The new guidance would consider using fortification methods along these routes that could withstand major disasters, including severe flooding, storm surges, wildfires and earthquakes, as well as methods that would provide for long-term cost savings.

FHWA and FEMA would also be required to update guidance on methods that could withstand major runoff and storm surge for the repair, restoration and replacement of roads that, as a result of a major disaster, have become inundated and/or submerged.

Maintains overall heavy truck weight limits.

The amount of weight on a single axle of a heavy truck carrying "dry bulk goods" would be permitted to increase by up to 110 percent. This section would not increase the overall weight limit for heavy trucks, nor would it affect existing bridge formulas.

TITLE II— *PUBLIC TRANSPORTATION*

Subtitle A— *Federal Transit Administration*

Sections 2101—2113

Authorizes $85.7 billion in Highway Trust Fund (HTF) contract authority for mass transit from FY 2022 through FY 2026. **| $37 billion increase over current law**

HTF contract authority would be authorized at the following levels for mass transit:

- **$12.15 billion** for FY 2022 (FY 2021 extension from Division A)
- **$17.89 billion** for FY 2023 (new INVEST highway/transit programs begin)
- **$18.20 billion** for FY 2024
- **$18.55 billion** for FY 2025
- **$18.90 billion** for FY 2026

HIGHWAY TRUST FUND TRANSIT FORMULA APPORTIONMENTS OVER FIVE YEARS

FAST Act (P.L. 114-94)	**INVEST Act (H.R. 3684)**
$48.7 billion	$85.7 billion

FORMULA	FY 2023	FY 2024	FY 2025	FY 2026
5305	$189.87 M	$192.84 M	$195.93 M	$199.00 M
5307	$7.51 B	$7.62 B	$7.74 B	$7.87 B
5308	$101.51 M	$103.10 M	$104.74 M	$106.39 M
5310*	$434.83 M	$441.61 M	$448.68 M	$455.72 M
5311*	$1.03 B	$1.04 B	$1.06 B	$1.07 B
5312*	$53.50 M	$54.02 M	$54.57 M	$55.11 M
5314*	$23.35 M	$23.71 M	$24.09 M	$24.47 M
5318	$5.08 M	$5.15 M	$5.24 M	$5.32 M
5328*	$30.45 M	$30.93	$31.42 M	$31.92 M
5337	$5.37 B	$5.46 B	$5.56 B	$5.66 B
5339(a)*	$1.24 B	$1.26 B	$1.28 B	$1.30 B
5339(b)	$437.08 M	$424.75 M	$387.94 M	$351.10 M
5339(c)	$890.00 M	$950.00 M	$1.07 B	$1.18 B
5340(c)	$309.69 M	$309.69 M	$309.69 M	$309.69 M
5340(d)	$277.44 M	$277.44 M	$277.44 M	$277.44 M
**funds would be further obligated*				

Authorizes funding for Capital Investment Grants (CIG). **| $21.5 billion over five years | $10 billion increase from current law**

Sec. 2101 would authorize CIG at the following levels:

- FY 2022: $3.25 billion (FY 2021 extension from Division A)
- FY 2023: $3.5 billion
- FY 2024: $4.25 billion
- FY 2025: $5 billion

- FY 2026: $5.5 billion

Bases transit apportionments on pre-COVID data.
The base transit formula apportionments for FY 2022 and FY 2023 would be derived from FY 2019 ridership data, rather than data from FY 2020 and FY 2021, which has been impacted by COVID-19.

Creates new competitive grant program to increase ridership. **| $400 million over four years**

Counties located in an urbanized area with a population of greater than 500,000 who are also in receipt of urban transit formula funds would be eligible for a new competitive grant program, funded at $100 million annually, to increase ridership by redesigning streets in a way that would facilitate more efficient movement of people in major urban areas. Projects would be funded at an 80 percent federal share.

Subtitle B—Improving Frequency & Ridership

Sections 2201–2205

Revises urban transit incentive formula factor.

Beginning in FY 2023, low operating costs as the base for the current urban transit incentive formula would be replaced with a new formula based on the number of vehicles per hour during peak service in the highest 25 percent routes by ridership.

Revises the rural transit formula.

Factors for rural transit formula apportionments would be revised in the following ways:

- 15 percent based on rural land area, down from 20 percent in current law
- 50 percent based on rural population, down from 80 percent
- 25 percent based on vehicle revenue miles, down from 29.68 percent
- 10 percent based on the state's share of low-income individuals, down from 40.64 percent

It would also allow in-kind contributions to meet local match requirements.

Creates new competitive grant program for paratransit.

The One-Stop Paratransit competitive grant program would be used to examine the costs, benefits and obstacles to allowing flexibility in paratransit trips. This would include making stops to drop off or pick up children and brief trips to pharmacies, grocery stores or banks.

Counties with paratransit services could apply to USDOT, which would then select fifteen participants, including five that serve populations between 50,000 and 200,000; ten that serve populations over 200,000; and five that serve rural communities.

Program participants would evaluate their ability to maintain a one-stop paratransit service, in comparison to those with fixed routes. Grants made under this section would cover costs associated with making additional stops.

Subtitle C— Buy American & Other Procurement Reforms

Sections 2301–2307

Prevents procurement of autonomous buses for existing service.

USDOT would be prohibited from obligating any funds to support a transition to autonomous buses or shuttles. Specifically, the legislation would prevent any funds from going toward "any alternative design or manufacture specification of a bus offered by a manufacturer."

Requires ARPA funds to be repaid if used to purchase rolling stock from a state-owned enterprise.

A local transit agency would be required to repay funds granted by the Federal Transit Administration under the American Rescue Plan Act if those funds were used to purchase rolling stock from a state-owned enterprise (ex. China).

Allows urbanized areas (UZAs) to retain urbanized area definition following disaster in rural area.

UZAs could retain designations following a major disaster that results in a reduction in population below 50,000.

Establishes restrictions on transit agency purchases of rolling stock.

As a condition of receiving 5339 transit formula funds, new restrictions would be put in place to govern the purchase of non-rail rolling stock from state-owned enterprises. The existing exemption for transit agencies that have purchased restricted rail rolling stock with the last two years would be eliminated.

Authorizes funding for bus formula grants [5339(a)]. **| $5.08 billion over four years | $2.85 billion increase from current law**

Counties who operate a fixed route bus service are eligible for the existing bus formula program to replace, rehabilitate and procure buses and other related equipment and to construct facilities; however, these eligibilities would be amended by the INVEST Act.

Subtitle D— Bus Grant Reforms

Sections 2401–2405

Removes eligibility for low emission vehicles from bus grants.

The eligibility for low emission vehicles would be removed, making only zero emission vehicles eligible under 49 U.S.C. 5339(a).

Removes eligibility to buy or lease buses under the competitive bus program.

Eligibilities around replacing, rehabilitating, purchasing or leasing buses and related equipment would be removed, making only projects to complete large, one-time needs for bus facilities or fleet expansions would remain eligible under the program.

Priority would be given to older facilities, those in need of resiliency improvements and those with existing multimodal connections at stations.

Requires local transit agencies to consider bus emissions in planning process.

Procurement requirements would be established to ensure local transit agencies invest in zero-emission bus fleets and infrastructure. A transit agency would be required to plan for both transition toward long term zero-emission needs, as well as a study examining the costs and necessities associated with a transition fleet.

Creates new subgrant within bus formula for aging buses.

A subgrant within 49 U.S.C. 5339 would be created to provide additional rolling formula funding for transit agencies with the oldest buses.

Creates new workforce development training grant program.

Counties eligible for Low or No Emissions Bus Grants would also be eligible for this new training program to carry out a workforce development training program related to the operation or maintenance of zero emission vehicles. The federal share would be 100 percent.

Amends urban transit formula to include low-income populations.

The apportionment formula for urbanized areas would be revised in the following ways:

- 50 percent for urbanized areas with populations of 200,000 and above, down from 75 percent in current law
- 12.5 percent for urbanized areas below 200,000, down from 25 percent
- 30 percent for communities above 200,000 based on their share of the number of individuals residing at a poverty rate of at least 20 percent for the preceding five years; and
- 7.5 percent for communities below 200,000 based on their share of the number of individuals residing at a poverty rate of at least 20 percent for the preceding five years

Subtitle E— Supporting All Riders

Sections 2501–2505

Requires states to distribute transit funds to persistent poverty counties.

States would be required to annually set-aside $50 million from rural transit formula grants (5311) to improve transit in rural areas with persistent poverty, defined as a county with a poverty rate above 20 percent since 1990.

Creates new grant program for low-income riders.

Counties who operate public transit and receive public transportation innovation funds (5312) would be eligible to apply directly to USDOT for funding to "implement a reduced fare transit program and offset lost fare revenue." Not less than 20 percent of funds would be awarded to applicants in rural areas.

A new demonstration program would be created to provide low-income riders with reduced fares and subsequently fund a study, in collaboration with a University Transportation Center, on the program's effectiveness at increasing ridership among low-income transit users.

Requires local transit agencies to form safety committees.

Local transit agencies would be required to expand their planning process to enhance focus on passenger and personnel injuries, assaults and fatalities. It would also require that a joint labor-management safety committee, made up of equal numbers of representatives from an employer or state and a labor organization, be formed to approve the new safety plan.
The joint labor-management safety committee would also be tasked with establishing risk reduction strategies and metrics.

Subtitle F— Supporting Frontline Workers & Passenger Safety

Sections 2601–2607

Conditions public transit agencies use of automated vehicles or mobility-on-demand services on workforce development plans.

Further clarification would be provided around the ability of transit agencies to deploy automated vehicles or a mobility on demand service in place of any existing service. It would require a transit agency considering such a transition to develop a comprehensive workforce plan on how the transition would affect employees. Transit agencies would be required to provide employees fair notice if their job is at risk due to the use of an automated vehicle or mobility on demand service.

Establishes a new safety set aside.

Transit agencies would be required to set aside 0.75 percent of 5307 funds, which could be used for any eligible 5307 projects. Should the agency fail to meet the measures established by the joint safety committee established by the Act, it would be required to use the set-aside for projects that could be reasonably expected to meet those measures.

Subtitle G— Transit-Supportive Communities

Sections 2701–2703

Establishes new Transit Oriented Development Planning office and grant program.

USDOT would be required to establish an Office of Transit-Supportive Communities, which would be tasked with making grants. Counties could apply directly to USDOT for these competitive grants to carry out eligible projects including:

- A new fixed guideway capital project or core capacity improvement as described in 49 U.S.C. 5309
- An existing fixed guideway system or station served by such system repairs or rehabilitation
- Projects in the immediate corridor along the highest 25 percent of routes based on a ridership formula through this new competitive grant program for

Projects should seek to enhance economic development, facilitate multimodal connectivity, increase access to transit hubs for non-motorists and include private sector participation, among others.

Projects would have an 80 percent federal share, unless an affordable housing component is included, which would allow for a 90 percent federal share.

Expands eligibility for land transfers to transfer of assets to local governments.

A recipient of transit formula funds who has acquired an asset using, at least in part, federal funds would be allowed to transfer an asset to a local government should it deem it no longer needed, granted that the asset would remain in public use for the following five years and that at least 15 percent of housing units would be offered as affordable housing.

Provides incentives for housing through Capital Investment Grants (CIG).

USDOT would be directed to favorably weight applications for projects from CIG sponsors that preserve or encourage affordable housing nearby. It would also allow a local government to use funds from the Economic Development Administration Public Works grant program or the U.S. Department of Housing and Urban Development Community Development Block Grant program to satisfy the local match requirement.

Counties are eligible to apply directly to USDOT for CIG funds.

Subtitle J— Streamlining

Sections 2911–2919

Seeks to balance transit and highway project approval processes.

Various changes would be made to the CIG program approval process, including:

- Increasing the cap for Small Starts projects to $320 million
- Making station expansion eligible for core capacity projects
- Increasing the time projects have to move through the engineering phase to three years
- Reestablishing projects performed under this section would be done so at an 80 percent federal share

TITLE V— *INNOVATION*

Subtitle A— Research & Development

Sections 5101–5118

Creates a new program for local governments to propose research projects.

USDOT would be required to establish a new program for counties and other eligible entities to propose research projects directly to USDOT at any time, regardless of open solicitations.

Creates intergovernmental working group on multimodal freight transportation.

USDOT would be required to stand up an advisory committee that would be tasked with developing a national research agenda for the National Cooperative Multimodal Freight Transportation Research Program, of which a “representative of local government” would be among required members.

Subtitle C— Emerging Technologies

Sections 5301–5311

Creates intergovernmental working group to support AV study.

USDOT would be required to study how AVs interact with traditional road users, including bicycles and pedestrians. An intergovernmental working group made of up of public and private stakeholders, including local governments, transit agencies and metropolitan planning organizations, would be created and tasked with assisting the study. The group would also be responsible for forming recommendations, which USDOT would be required to submit to Congress within two years of enactment of the INVEST in America Act.

Provides technical assistance for rural communities.

Rural communities outside of metropolitan or micropolitan statistical areas would become eligible for assistance from the National Surface Transportation and Innovative Finance Bureau, with the goal of providing these communities technical assistance and communicating "best practices and financing and funding opportunities to eligible entities."

The bureau would be directed to work with the U.S. Department of Agriculture's Office of Rural Development, the U.S. Environmental Protection Agency's Office of Community Revitalization and other similar mission-oriented agencies that provide technical assistance for rural communities in providing the directed outreach.

Reinstates the Local Labor Hiring pilot program.

A 2015 pilot program originally established in the FAST Act would be reauthorized, to begin immediately upon the bill's enactment through its expiration on September 30, 2026, that would allow selected grantees of federal highway or transit funds – including counties – who choose to participate to use requirements in contracting that are based on social and/or economic factors. USDOT would then evaluate the use of these factors on the overall competitive bidding process.

TITLE VII—
TRANSPORTATION INFRASTRUCTURE FINANCE & INNOVATION ACT

Section 7001

Raises threshold for TIFIA projects.

The threshold for TIFIA projects would increase from $75 million to $150 million, thereby streamlining the process for more applicants who would no longer be required to secure multiple credit rating agency opinions. The bill would further clarify that any proceeds from a TIFIA loan could be eligible toward local match requirements of a project completed with federal highway or transit funds.

The amount made available for USDOT to waive fees associated with small TIFIA projects (projects costs are less than or equal to $75 million) would also increase from not less than $2 million to not less than $3 million.

DIVISION D—
Rail

TITLE I—
AUTHORIZATIONS

Sections 9101–9106

Authorizes funding for Amtrak **| $29.3 billion over five years | $10.08 billion more than S. 2016**

$13.1 billion would be authorized for Amtrak's Northeast Network from FY 2022 through FY 2026. $16.2 billion would be authorized for the National Network over the same time period.

In comparison to current law, the INVEST in America's Amtrak total authorization level is a roughly 264 percent increase over the $8.05 billion provided for in the FAST Act. The $29.3 billion would be broken down in the following ways:

Authorizes funding for the Consolidated Rail Infrastructure and Safety Improvement (CRISI) grant program **| $7 billion over five years**

$1.4 billion would be authorized annually for CRISI grant program, representing an over 320 percent increase between the FY 2020 levels provided for in the FAST Act and the INVEST in America's Act proposed FY 2021 authorization for the program.

Under both current law and the INVEST Act, counties can apply directly to USDOT for these funds that leverage local, state and private investments to boost a wide range of rail projects, including the implementation of positive train control, the elimination of highway-rail grade crossings, congestion mitigation, the repair or replacement of railroad assets and the overall enhancement of intercity passenger rail transportation.

Authorizes funding for Rail Restoration and Enhancement grants | **$100 million over five years**

$20 million would be authorized annually to be appropriated from FY 2022 through FY 2026 for FRA's Restoration and Enhancement grant program, which is consistent with the levels provided for in each fiscal year of the FAST Act. Under both current law and the INVEST Act, counties can apply directly to USDOT for these funds that would cover personnel costs; diesel fuel or electric costs associated with powering a locomotive; station costs; and general administrative costs, among a wide variety of other eligible uses.

Creates new intercity rail grant program | **$19 billion over five years**

Counties could apply directly to USDOT through a new competitive program – the Passenger Rail Improvement, Modernization and Expansion (PRIME) grant program. PRIME grants could be used to complete state of good repair and rail improvement and expansion projects, with a federal cost share of up to 90 percent.

Decreases amounts reserved for rural areas in CRISI program.

The amount of funds reserved for rural areas within the CRISI grant program would decrease from 25 to 15 percent. Current criteria prioritizing projects that require lesser federal shares would be removed.

Reauthorizes the Railroad Rehabilitation Financing (RRIF) Program.

The RRIF program that provides direct loans and loan guarantees to finance the development of railroad infrastructure would be reauthorized.

Under both current law and the INVEST Act, counties can apply directly through USDOT for this financing that can be used to:

- Acquire, improve or rehabilitate rail components, yards and other facilities
- Develop new facilities
- Reimburse planning expenses incurred under this section
- Refinance debt
- Finance other transit-related projects.

$30 million would be provided annually for USDOT to pay the credit risk premium associated with RRIF loans for local governments. Currently, RRIF loans may be used to finance up to 100 percent of a project with repayment periods of up to 35 years.

TITLE IV—
COMMUTER RAIL POLICY

Sections 9401–9403

Requires rail carriers to act in good faith.

Rail carriers would be required to provide good faith consideration to a request from a commuter rail to use tracks and/or rights of way. A public transportation authority could seek nonbinding mediation should a dispute with a rail carrier regarding a matter described under this section remain unresolved.

TITLE V—
RAIL SAFETY

Subtitle A— Passenger & Freight Safety

Sections 9501–9519

Directs USDOT to study rail safety.

USDOT would be directed to study different elements of rail safety, including how it may be enhanced with appropriate signage.

Mandates minimum crew size.

A minimum two-person crew requirement for freight trains would be established. Crew-size exemptions would be available for small and short line railroads; however, it would be further clarified those exemptions would not be available for long trains or those carrying hazardous materials.

Subtitle B— Grade Crossing Safety

Sections 9551–9560

***Creates new competitive grant programs for counties to address at-grade crossings* | $2.5 billion over five years**

Counties could apply directly to USDOT for these competitive grant funds that would be appropriated in the following ways over five fiscal years:

- **$450 million** in FY 2022
- **$475 million** in FY 2023
- **$500 million** in FY 2024
- **$525 million** in FY 2025
- **$550 million** in FY 2026

Eligible projects would include:

- Installation, repair or improvement of grade crossing separations
- Elimination of at-grade crossings
- Planning , development or execution of related environmental mitigation activities

For projects costing more than $40 million, the federal share would be 65 percent; for projects costing less than $40 million, the federal share would be 85 percent. Not more than 50 percent of funds could be used for projects costing more than $100 million. Right-of-way owners would be responsible for 10 percent of the project's cost.

***Creates new rail safety public awareness grant program* | $25 million over five years**

Counties could apply directly to USDOT through the Rail Safety Public Awareness grant program, funded at $5 million annually from FY 2022 through FY 2026. Grant funds could be used for public education and media campaigns, school and driver education safety presentations and other related education efforts around rail safety. Coordination between eligible entities and local governments, local law enforcement, first responders and rail carriers would be required, where appropriate.

Addresses blocked rail-highway crossings.

A 10-minute time limit would be imposed for stopped freight trains blocking a public rail-highway crossing and USDOT would be authorized to impose penalties on trains not in compliance. USDOT could delegate this enforcement authority to states. Blocked crossings would become an eligible complaint that the public may make against a railroad under law.

No later than 18 months after the bill's enactment, USDOT would be required to develop and report to Congress a national strategy to address blocked crossings.

DIVISION G—
Highway Trust Fund

Sections 11001–11002

Makes a general fund transfer to shore up the Highway Trust Fund (HTF).

In order to cover the projected $148 billion HTF shortfall that would result if the INVEST Act were enacted, $109 billion would be transferred from the U.S. Treasury's general fund to the HTF highway account and $39 billion would be transferred to the HTF mass transit account.

DIVISION O—
Efficient & Effective NEPA Implementation

Section 19101

Creates task force to improve National Environmental Policy Act (NEPA) implementation.

The Council on Environmental Quality would be tasked with establishing a task force and determining the membership thereof, in addition to relevant federal agency officials. The goal of the task force would be to provide for "more efficient and more effective" NEPA reviews, including through hiring additional staff and a variety of other mostly administrative strategies.

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