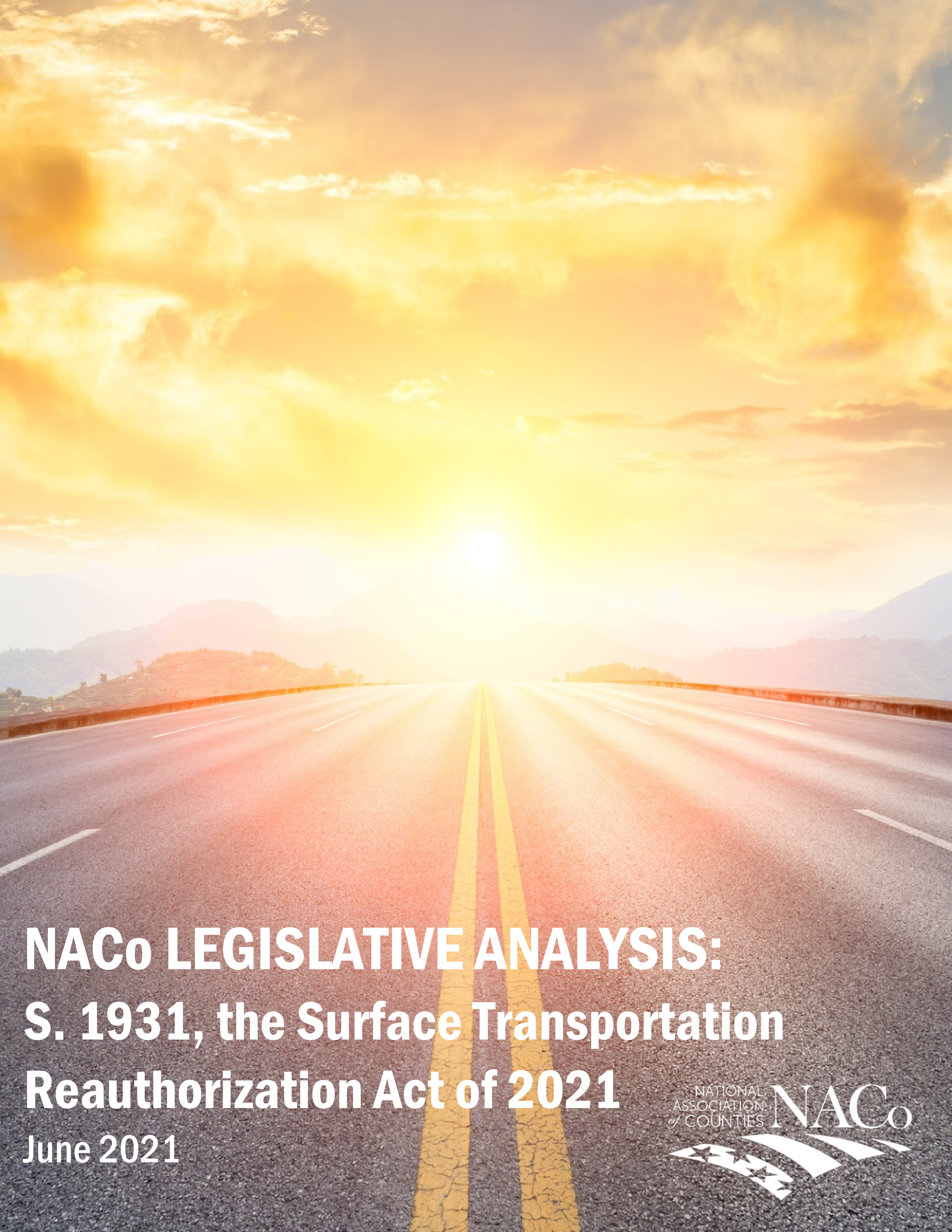

NACo LEGISLATIVE ANALYSIS:

S. 1931, the Surface Transportation Reauthorization Act of 2021

June 2021

NATIONAL ASSOCIATION of COUNTIES NACo

Legislative Analysis: S. 1931, the *Surface Transportation Reauthorization Act of 2021 (STRA-21)*

AUTHORIZATIONS & PROGRAMS

TITLE I—FEDERAL-AID HIGHWAYS, Subtitle A, Sections 1101—1136

Note: *Spending levels highlighted in the analysis are over five years unless otherwise specified.*

Authorizes $273.15 billion in Highway Trust Fund (HTF) contract authority for highways, roads and bridges from FY 2022 through FY 2026.

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

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

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

PROGRAM	5-YEAR TOTAL
Carbon Reduction Program – NEW	$6.41 billion
Congestion Mitigation and Air Quality Improvement Program	$13.2 billion
Highway Safety Improvement Program	$15.56 billion
Metropolitan Planning	$2.28 billion
National Highway Freight Program	$7.15 billion
National Highway Performance Program	$148 billion
Promoting Resilient Operations for Transformative, Efficient and Cost Saving Transportation (PROTECT) Program – NEW	$7.30 billion
Railway-Highway Crossing Program	$1.23 billion
Surface Transportation Block Grant Program	$72 billion (before TAP)

View state-by-state apportionment tables for formula programs here. View a table of spending levels that would be authorized by STRA-21 here.

Increases the off-system bridge set-aside. **| $4.92 billion over five years**

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 an increase of $258 million annually from current law. Low-water crossings would become eligible.

Alters the Surface Transportation Block Grant Program (STBGP).

New projects would become eligible for STBG funds, including the installation of electric vehicle (EV) charging infrastructure, mitigation for wildlife collisions and resiliency improvements.

A fourth population band for communities between 50,000 and 200,000 would be created, ensuring greater equity within the program for communities of different sizes.

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

Creates a new rural set-aside for construction and maintenance on local roads.

A state could use up to 15 percent of STBG funds for projects or maintenance needs on road rural minor collectors, local roads, and ice and seasonal roads.

***Increases funding for the Transportation Alternative Program (TAP).* |**
$7.2 billion over five years

Funding for TAP would increase by becoming 10 percent of the entire STBGP before other set-asides. The percentage states are required to suballocate to local governments based on population would also increase from 50 to 59 percent and an option would be provided for states to suballocated up to 100 percent. 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 others approved uses.

Significantly increases cap on state incentive payments to local governments to address at-grade crossings.

The cap established by the Section 130 program would increase from $7,500 to $100,000. The federal cost share would also increase to 100 percent for projects eliminating at-grade rail-highway crossings.

***Increases INFRA grant funding.* | $4.8 billion over five years**

In comparison to current law, funding for the Nationally Significant Freight and Highway Projects Program – better known as INFRA – would increase by $300 million over five years. 30 percent of the funds would be reserved for small projects in rural areas, and the federal share for those projects would increase from 60 to 80 percent.

***Creates new Bridge Investment Program (BIP).* | $3.265 billion over five years**

Counties could apply directly to USDOT for the competitive portion of the BIP to carry out small and large bridge projects, subject to the availability of appropriations for the competitive portion. Eligible projects would be defined as those meeting the following goals, including:

- Reducing the number of bridges already in poor condition or those that are in fair condition but are at risk of falling into poor condition in the next three years
- Reducing the number of bridges and the amount of individual vehicle miles traveled (VMT) over bridges in poor or vulnerable condition, as well the VMT over bridges that do not meet current design standards or that have weight restrictions

The federal share for projects would be no more than 50 percent for large projects (defined as those costing more than $100 million) and no more than 80 percent for any other project. Off-system bridges would be eligible.

***Increases funding for ferries.* | $570 million over five years**

Funding for the construction of ferry boats and ferry terminal facilities would increase from current law by $170 million over five years. These funds, as is the case in current law, would be distributed by formula to ferry systems and the public entities responsible for developing ferries and related infrastructure.

***Establishes a new Wildlife Crossings Pilot Program.* | $350 million over five years**

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

Adds eligibility for bus capital projects.

Bus capital projects would become eligible for STBGP funds, including increasing capacity for new bus lanes and generally all necessary activities related to the creation of bus rapid transit.

Codifies the Rural Opportunities to Use Transportation for Economic Success (ROUTES) Council.

ROUTES, an initiative of the previous administration, seeks to address disparities in rural transportation. Under STRA-21, USDOT would be required to create an internal ROUTES Council tasked with providing technical assistance to rural areas and disadvantaged rural areas for grant applications; researching and developing strategies to resolve rural transportation issues; and gathering information from stakeholders.

Allows counties to determine local roadway design.

The Manual Uniform Traffic Control Device would be updated to remove the requirement that local roads must be built to state standards, allowing for counties and other local governments to use the FHWA-approved roadway design of their choice. This section would also create new standards to facilitate the rollout of EV charging stations.

Establishes a new Rural Surface Transportation Grant Program. **| $2 billion over five years**

A rural area would be defined as "an area outside an urbanized area with a population over 200,000." Eligible counties could apply directly to USDOT for these funds to carry out a wide variety of highway and bridge projects that increase connectivity, improve safety, and facilitate the movement of goods and people at a federal cost share of 80 percent. Counties could also bundle projects.

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

Makes changes to the Manual Uniform Traffic Control Device (MUTCD).

USDOT would be required to update the MUTCD to provide for the protection of vulnerable road users, testing and integrating automated vehicle technology, the installation of electronic traffic signs and other recommendations issued by the National Committee on Uniform Traffic Control Device that have not yet been incorporated.

PLANNING & PERFORMANCE MANAGEMENT

TITLE I—FEDERAL-AID HIGHWAYS, Subtitle B, Sections 1201—1206

Establishes criteria for Metropolitan Planning Organizations (MPOs) to consider when designating county and other local representatives.

MPOs would be required to consider the equitable and proportional representation of the population of the metropolitan area when designating officials or representatives. This section would also enhance coordination among MPOs designated within the same area and encourage states and MPOs to use technology and social media to engage the public during the transportation planning process.

Requires states and MPOs to fund Complete Streets.

MPOs would be required to spend no less than 2.5 percent of the Planning Funds received from states on the adoption of Complete Streets and related initiatives that are designed to address community needs and reduce vehicle-related crashes and the risk to pedestrians. MPOs could opt out of the requirement if a Complete Streets program is already in place.

PROJECT DELIVERY & PROCESS IMPROVEMENT

TITLE I—FEDERAL-AID HIGHWAYS, Subtitle C,

Codifies "One Federal Decision" permit streamlining provision.

USDOT would be required to develop a two-year timeline for completing environmental reviews on major projects—defined as a project requiring multiple reviews, permits or studies. Not later than 90 days after a record of decision is issued, all related authorizations would have to be issued. Reviews would be limited to 200 pages. It would also require federal agencies to identify existing categorical exclusions that, if also applied by another agency, have the potential to expedite project delivery. Finally, USDOT would

Sections 1301—1318

be required to annually report to Congress the time it takes to complete reviews required by the National Environmental Protection Act (NEPA).

Expedites evaluations for projects within an operational right-of-way.

Federal agencies would be required to provide, at minimum, a preliminary review of applications for projects within an operational right-of-way within 45 days of submission. Other deadlines would also be created and federal agencies not meeting a prescribed timeline would be subject to reporting requirement.

Increases cost thresholds eligible for categorical exclusions.

For small projects, the threshold would increase from $5 million to $6 million; for large projects, it would increase from $30 million to $35 million.

CLIMATE CHANGE

TITLE I—FEDERAL-AID HIGHWAYS, Subtitle D, Sections 1401—1407

Creates new competitive grant programs, suballocations for counties to address climate change.

Charging and Fueling Infrastructure Grants | *$*1.25 billion over five years
Counties could apply directly to USDOT for funds to carry out eligible projects that promote the deployment of infrastructure for EVs and hydrogen, propane and natural gas in designated areas. Propane refueling infrastructure would be restricted to medium and heavy-duty vehicles.

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

Reduction of Truck Emissions at Port Facilities | *$*250 million over five years
Counties and other entities could apply to USDOT to carry out projects that reduce port emissions, including the advancement of port electrification at an 80 percent federal cost share. USDOT would be required to issue a Notice of Funding Opportunity to solicit applications by no later than April 1 each year.

Carbon Reduction Formula Program | $6.42 billion over five years
A state would be required to suballocate 65 percent of funds apportioned for this purpose on the basis of population to counties and other local governments in the same way STBGP funds are distributed. Eligible projects would include public transit projects, trails and other projects to facilitate non-motorized users of the road, the replacement of streetlights with energy efficient alternatives, purchase or lease of zero emissions construction equipment, among several others.

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

Congestion Relief Program | $250 million over five years
MPOs representing areas with populations of more than one million could apply directly to USDOT to carry out projects that reduce the economic and environmental costs associated with congestion. At an 80 percent federal cost share, eligible projects would include improving intermodal integration, shifting highway users to off-peak travel, tolling and implementing congestion pricing.

PROTECT Grant Program | $1.4 billion over five years
In addition to a formula component, the new PROTECT program would also provide competitive grants counties and other eligible entities could apply for directly through USDOT to enhance the resiliency of infrastructure assets, including projects to improve coastal infrastructure and evacuation routes. The program would create four subgrants to distribute the funds:

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

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

Healthy Streets Program | $500 million over five years
Counties with a disproportionate number of communities of color, defined in the legislation as, in a state, a Census block where the total percentage of residents who identify as nonwhite is more than 50 percent, or USDOT determines it to be eligible for funding under this program. Eligible projects would be the installation of cool and/or porous pavements and the expansion of tree cover with the goal of reducing urban heat centers and improving air quality. The federal cost share for this program would be 80 percent with a waiver of up to 100 percent available at the discretion of USDOT.

MISCELLANEOUS

TITLE I—FEDERAL-AID HIGHWAYS, Subtitle E,

***Creates new competitive grant program to address threats to pedestrians.* | $25 million over five years**

Counties could apply directly to USDOT for funds for bollard installation, defined as a "project to install raised concrete or other metal posts on a sidewalk adjacent to a

Sections 1501—1525

roadway to are designed to slow or stop a vehicle." The federal share would be up to 100 percent.

Provides for consultation with local transportation agencies on the maintenance and repair needs of roads, trails and bridges within the National Forest System. | $250 million over five years

Consultation with counties and other stakeholders would be required in order to inform a report from USDOT to Congress to determine the impacts of automated vehicles (AVs) on existing infrastructure, such as signage and markings; on mobility, traffic flow, congestion, and the environment; and to identify infrastructure upgrades necessary to accommodate AVs.

Establishes disaster relief mobilization study.

USDOT would be required to undertake a vulnerability assessment of local infrastructure that supports active transportation and nonmotorized road users with a particular focus on communities with low levels of vehicle ownership and those that lack active transportation routes to access public transportation. The goal of the study would be to determine if incorporating such routes could facilitate a better emergency response, especially in reaching isolated communities.

Directs funds to the Appalachian Regional Commission (ARC) and provides greater authority to the Denali Commission.

High-Speed Broadband Deployment Initiative | $100 million over five years
ARC counties would become eligible for funding under a new initiative that would provide technical assistance, make grants and enter in contracts to fund projects that increase affordable access to broadband in the region. Eligible projects include conducting research and training and constructing and deploying broadband related infrastructure.

Appalachian Regional Energy Hub Initiative | **$25 million over five years**

ARC counties would also become eligible for funding under a new initiative that would provide the same activities described above with the goal of researching the impacts of ethane storage in the ARC region, to improve economic resilience and to establish a hub in the region for natural gas and natural gas liquids. The federal cost share would range from 50 to 80 percent depending on the economic health of the county where the project is located.

Denali Commission (Alaska)
Funds transferred to the Commission from another federal agency would no longer be subject to any requirements previously attached to those funds, including any regulatory actions by the transferring agency.

Establishes requirements for projects financed through public-private partnerships (P3).

Projects utilizing public and private assistance with an estimated project cost of $100 million or greater would be subject to disclosures and certifications regarding the private partners satisfaction of terms. Project sponsors in receipt of federal loans or grants using P3 to carry out a project would be required to include a “detailed value for money analysis” within the financial plan, and it would make such an analysis an eligible cost under STBGP.

Creates new Reconnecting Communities Pilot Program. | **$500 million over five years**

Planning Grants | $150 million over five years
Counties could apply directly to USDOT for planning funds to carry out feasibility studies on the impact of removing or mitigating physical infrastructure barriers, including, within communities to improve accessibility and facilitate economic development at an 80 percent federal share. Applications would be evaluated on criteria including the age of the facility, its impact on accessibility and its current role in meeting traffic demands.

Capital Construction Grants | $350 million over five years
USDOT would make awards to the owner of an eligible facility, including at-grade crossings, limited access highways, viaducts and other principal arterial facilities acting as a barrier. The facility owner could partner with a county to carry out eligible projects, including the removal, retrofit or mitigation of an eligible facility and the replacement of an existing facility with a new facility that restores connectivity.

Requires USDOT to create a cybersecurity tool for public transportation authorities.

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

Maintains heavy truck weight limits.

The current size and weight limits for heavy trucks would be extended in the bill.

Requires coordination with counties on eliminating invasive plant species.

A state would be required to coordinate with a county when carrying out a federally supported project to eliminate invasive species within that county’s boundaries.

TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION (TIFIA)

TITLE II, Section 2001

Makes amendments to the TIFIA program.

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

RESEARCH, TECHNOLOGY & EDUCATION (RTE)

TITLE III, Sections 3001—3010

Makes local governments eligible for the Surface Transportation System Funding Alternatives Program.

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

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For more information on effective intergovernmental policy development and how to engage with your local elected partners, please contact our Government Affairs team.

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