



SCWA Legislative Update

August 16, 2021



Senate Passes Bipartisan Infrastructure Bill

On August 10, the U.S. Senate approved its bipartisan infrastructure bill, the “Infrastructure Investment and Jobs (IIJA) Act,” by a vote of 69 to 30. This landmark legislation will generate massive investment in our infrastructure at this critical time if it can pass through the House of Representatives.

The bill would provide \$550 billion in spending above budget baseline over five years and includes the text of S. 1931, the Senate Environment and Public Works Committee surface transportation reauthorization bill that passed the Committee in May. The bipartisan infrastructure legislation includes increases for highway funding via formula, a focus on investment in roadway safety, important streamlining provisions, significant bridge investments, and preserves flexibility to invest in both new capacity and improvements to existing roadways that will make every road user’s trip safer and more reliable.

The IIJA also includes the Surface Transportation Investment Act, passed by the Senate Committee on Commerce, Science, and Transportation with bipartisan support, as well as the Senate-passed Drinking Water and Wastewater Infrastructure Act and the Energy Infrastructure Act, which received bipartisan support in the Senate Committee on Energy and Natural Resources.

The Senate accepted 14 amendments to the bill, but the changes were minor in nature.

Our attention will now turn to the House which has recessed until September 20 but if the Senate passes a budget resolution during August, the House is expected to return to vote during this recess. It is unknown how Speaker Pelosi (D-CA) and the House will proceed with the IIJA. Some expect that the House will be forced to take up the bill without amending it due to the President’s and the Senate Democrats’ support for the measure. The negotiations took a long time, and the product is delicately balanced so bouncing back and forth with amended versions will be problematic. House Committee on Transportation and Infrastructure Chairman Peter DeFazio (D-OR) is extremely frustrated by the success of the IIJA bill and the potential that the House may have little sway in the final bill; and the House very well may never proceed to conference with their INVEST in America Act. At this point how the House will move forward is unclear -- but we will keep members posted as the legislation develops.

Below are materials of interest:

[Click here to view the IIJA summary from the G-22.](#)

[Click here to view the list of amendments that were filed and passed.](#)

Overview:

- Authorizes approximately \$304 billion from the Highway Trust Fund (HTF) for roads and bridges over five years through FY 2026.
- FHWA Highway Trust Fund Contract Authority (Including ER):

- FY22 - \$58.2 billion
- FY23 - \$59.5 billion
- FY24 - \$60.8 billion
- FY25 - \$62.0 billion
- FY26 - \$63.4 billion

Note: This is a 34 percent increase over funding levels in the Fixing America's Surface Transportation Act (FAST Act) and would be the largest amount of highway funding and part of the largest amount of surface transportation funding ever authorized by a surface transportation bill.

- Bridge Investment Program - Provides \$12.5 billion over five years for a new Bridge Investment Program that funds competitive grants to address the nationwide backlog of bridge repair and rehabilitation projects.
- Bridge Formula Program - Appropriates \$27.5 billion for a new bridge formula program to provide funding to States and Tribal governments to repair and rebuild bridges.
- INFRA Funding - Provides \$8 billion over five years for the National Significant Freight and Highway Projects Program, known as "INFRA." INFRA provides competitive grants for highway, bridge, and multimodal freight projects of national and regional significance.

Climate Change and Resilience:

- Reducing Carbon Emissions from Transportation - IIJA establishes a new Carbon Reduction Program that will distribute approximately \$6.4 billion over five years to States by formula to invest in projects that support a reduction in transportation emissions. Eligible projects include transportation electrification and EV charging, public transportation, including Bus Rapid Transit, infrastructure for bicycling and walking, intelligent transportation systems (ITS) improvements, infrastructure to support congestion pricing, diesel engine retrofits, and port electrification.
- PROTECT Resilience Grants - Creates a new Promoting Resilient Operations for Transformative, Efficient, and Cost saving Transportation (PROTECT) grant program, which provides formula funding to States and competitive grants to eligible entities to make our surface transportation infrastructure more resilient, including through the use of natural infrastructure, to the effects of extreme weather and natural disasters. Provides \$7.3 billion in formula funding and \$1.4 billion in competitive grants over five years funded from the HTF.
- Electric Vehicle Charging - \$5 billion over five years for a State formula program for EV charging infrastructure deployment.
- Port Truck Emissions Reduction Program - Provides \$400 million to reduce air emissions from trucks idling at port facilities.
- Healthy Streets - Authorizes a new Healthy Streets Program for eligible projects, including projects that mitigate urban heat islands, improve air quality, and reduce storm water runoff.
- Resilience and Adaptation Centers of Excellence - Authorizes the creation of new Resilience and Adaptation Centers of Excellence, which will advance research to help make surface transportation infrastructure more resilient to natural disasters and extreme weather.

Supporting Rural America & Tribal Communities

- Rural Surface Transportation Grant Program - Invests in rural America by

authorizing \$2 billion over five years for a new competitive grant program to improve and expand the surface transportation system in rural areas.

- Tribal Transportation Projects - Authorizes nearly \$3 billion over its five years for the Tribal Transportation Program, ensuring that tribes will have greater access to funding for surface transportation projects throughout Indian Country.

Enhancing Safety and Equity for All Road Users

- Reconnecting Communities Pilot Program - Provides \$1 billion over five years for a new pilot program that provides competitive grants for planning and projects to remove, retrofit, or mitigate existing highways that were built through neighborhoods and created a barrier to mobility and economic development.
- Highway Safety Improvement Program (\$15.6 billion over 5 years) - Provides States with the ability to flex 10% of their HSIP funds to behavioral projects and includes a new special rule to provide targeted funding to address the safety needs of vulnerable road users under certain circumstances. It also sets aside \$1.3 billion over five years for the Railway-Highway Crossing Program.
- **Note:** *Small business leaders continue to be concerned with flexing HSIP funds to non-infrastructure programs as they have their own funding sources. The bill allows for 10% flex.*
- Transportation Alternatives - The bill increases funding for the Transportation Alternatives Program (TAP), which funds bicycle and pedestrian projects among other projects, through a 10 percent set-aside of the STBGP.
- Safe Routes to School - Codifies the existing Safe Routes to School Program, which encourages children to safely walk or bike to school.
- Complete Streets - Addresses communities' access to safe bicycling and walking options by providing dedicated funding for the development of Complete Streets standards and planning by States and metropolitan planning organizations.
- Reducing Wildlife-Vehicle Collisions - Authorizes \$350 million over five years for a new pilot program that provides competitive grants for projects that reduce wildlife-vehicle collisions.

Streamlining Provisions:

- Codifies One Federal Decision policy, which establishes a two-year goal for completion of environmental reviews for infrastructure projects. Also seeks to ensure environmental review documents remain under 200 pages.
- Improving Federal Agency Coordination - Allows federal land management agencies to use an environmental document previously prepared by the Federal Highway Administration (FHWA) for a project addressing the same action, and also allows for a federal land management agency to use the categorical exclusions listed in the implementing regulations of FHWA.
- Improving Accountability - Directs the USDOT to carry out a process to track, and annually submit to Congress a report containing the time to complete an environmental impact statement and an environmental assessment under the National Environmental Policy Act.

Other Provisions of Note:

- Clean School Buses and Ferries—\$7.5 billion
- The bill includes a historic amount of funding, \$5 billion, for the replacement of existing school buses with clean school buses, with a priority on low-income, rural, and Tribal schools. \$2.5 billion of this funding will be for zero-emission school buses and \$2.5 billion will be for zero-emission school buses and other buses that run on

- alternative fuels.
- Buy America
 - Expands Buy America to construction materials, which must be “produced in the United States.”
 - Requires review of general waivers to the program.
 - Exempts cement and cementitious materials, aggregates such as stone, sand, or gravel or aggregate binding agents or additives from the definition of construction materials.
 - Safety Contingency Funds: Provides the opportunity for contingency funds that can be used to improve safety in work zones prior to, or during construction.
 - Vulnerable Roadway Users - Drives policy changes in the bill to protect vulnerable road users such as pedestrians, bicyclists, and people with disabilities.
 - MUTCD - Requires updates to the Manual on Uniform Traffic Control Devices within 18 months of enacting the bill and then every four years. It also expands the focus to cover vulnerable road users. And allows local jurisdictions to utilize their own design guide if accepted by the FHWA.

Highway Trust Fund: Includes a \$118 billion general fund transfer to the Highway Trust Fund. \$90 billion will be deposited into the Highway Account and \$28 billion will be deposited into the Mass Transit Account. This transfer was expected as a Highway Trust Fund fix remains elusive.

The Congressional Budget Office released its budget score of the bipartisan infrastructure bill. The “payfors” in the bill fall short of covering the cost by about \$256 billion over ten years.

The September 30 deadline is fast approaching. Attention must move immediately to the House.



Senate Democrats Pass \$3.5 Trillion Budget Resolution

On August 11th, after an all-night session voting on amendments, the Senate passed a \$3.5 trillion “Concurrent Resolution on the Budget for Fiscal Year 2022.” The vote was on party lines, 50-49.

The budget resolution now moves to the House, which will return August 23rd and could consider and pass the budget resolution approved by the Senate.

The Senate and House must pass an identical budget resolution to allow “reconciliation procedures” to take effect, the most important being the ability to pass the FY 2022 budget with 51 votes in the Senate rather than the usual 60.

The “Concurrent Resolution” is not a law, it’s a statement of the two “concurring” houses of Congress allocating appropriations and tax law changes for Fiscal Year 2022.

The Senate did its part by passing the \$3.5 trillion budget resolution; if the House approves it, Democrats will be in position to write a \$3.5 trillion bill specifying

appropriations and tax changes for FY 22, using reconciliation procedures.

The Senate adjourned for the August recess and will not return till after Labor Day.

The House will return this week, then adjourn for the Labor Day holiday.



Thune Amendment Passes 99-0

Senator Thune filed amendment 3106 to the Senate budget resolution. The amendment protects the current step up in basis provision, stopping the Biden administration's proposed double death tax.

The text of the [amendment can be seen here](#).

The issue of step up in basis affects family businesses in every state across the country and we are working towards a bipartisan result.

Days later, Senator Thune's amendment to protect step up in basis passed with a vote of 99-0. All of the moderate Democrats focused on voted in favor of protecting step up.

Senators Cortez Masto, Tester, and Warnock then offered a side by side amendment essentially carving out family businesses and farms from changes to step up in basis, an idea presented in the administration's American Families Plan which TIA opposes. All 49 Senate Republicans in attendance held against the carve out amendment and notably Senator Sinema joined Republicans in opposing the carve out concept. The amendment was rejected 49-50.

These encouraging results (non-binding budget votes) do not guarantee any policy outcomes for the future but certainly help our cause in urging members to steer clear of using step up/cap gains at death as "pay fors". The fight will continue into fall as the tax committees scramble for revenue raisers to fund the next reconciliation bill.

Stay tuned for more updates as we work together to protect family businesses from big tax hikes.

