



Information Alert

State-Federal Relations Division

Senate Committee Approves Surface Transportation Reauthorization Bill

May 28, 2021

On May 26, the Senate Environment and Public Works Committee (EPW) [unanimously approved](#) (20-0) a five-year bipartisan reauthorization of [the 2015 Fixing America's Surface Transportation \(FAST\) Act](#). The current one-year extension of the FAST Act, [P.L. 116-159](#), will expire on Sept. 30, 2021. The new bill, [the Surface Transportation Reauthorization Act of 2021 \(STRA-21\)](#), is a key first step in the reauthorization process. However, with multiple committees in both chambers yet to act, it remains unclear as to how and when a full reauthorization will be enacted into law. Rail, safety, transit, and funding and financing are under the jurisdiction of the Senate Commerce, Banking and Finance Committees. Those provisions will be added at a later date, prior to consideration by the full Senate. In the House, the Transportation and Infrastructure Committee has not yet released its surface transportation reauthorization legislation, but is anticipated to do so mid-to-late June as the committee reviews [earmark requests](#).

The bill is expected to help serve as a cornerstone to lead bipartisan infrastructure discussions with the White House, with EPW Committee ranking member Shelley Capito (R-W.V.) [indicating](#) that the bill is really “the anchor” of those discussions. Senator Tom Carper (D-Del.), chairman of the EPW Committee has also [stated](#) that the bill provides a “vital foundation for President Biden’s American Jobs Plan.” As of right now there are ongoing infrastructure discussions between Senate Republicans and the White House, with the White House last week offering a counterproposal that lowered the cost of the president’s initial plan from \$2.2 trillion to \$1.7 trillion indicating they weren’t willing to use reconciliation just yet.

Below is a general overview of some of the major areas affecting states. If you have any questions or concerns, please contact NCSL staff: Kristen Hildreth (Kristen.hildreth@ncsl.org).

Overall Funding

The bill represents a significant early victory for states. Not only would STRA-21 provide \$303.5 billion over five years, a [34 percent increase](#) from the 2015 FAST Act, and a 6% increase from the recent one-year reauthorization, but 90% of total highway funding from the Highway Trust Fund is provided to states via the same predictable formula used in previous surface transportation bills. This provides states a significant amount of certainty in the amount and types of federal road funding they would receive. Topline funding includes \$148 billion for the

[National Highway Performance Program](#), \$64.8 billion for the [Surface Transportation Block Grant Program](#) (STBG), and \$13.2 billion for the [Congestion Mitigation and Air Quality Program](#).

The Senate EPW Committee does not have jurisdiction over how to fund the authorizations included in the bill, however the bill does attempt to gather data on the funding and solvency of the Highway Trust Fund (HTF). The bill authorizes a study to provide an estimate of the total amount of fuel taxes paid by users of non-highway recreational vehicles into the HTF in Section 1512 [of the bill](#), and in Section 3001 reauthorizes and renames [the Surface Transportation System Funding Alternatives Program](#) to test the feasibility of a road usage fee and other user-based alternative revenue mechanisms to support HTF solvency. Additionally, Section 3002 would require the U.S. Department of Transportation (DOT) and the Treasury Department to establish a pilot program to demonstrate a national motor vehicle per-mile user fee. The section establishes a Federal System Funding Alternative Advisory Board which would assist with the pilot program, and development of an annual report to Congress on the program, including providing commentary on the maintenance of users' privacy, and equity impacts of the program including impacts of the program on low-income users.

The Senate Finance Committee will be tasked with developing the necessary funding and financing mechanisms to support the programs within the bill. NCSL participated in an [EPW committee hearing](#) last month, providing a comprehensive overview of what states across the nation have done to develop and deploy new funding and financing mechanisms to meet the rising costs of construction, operation and maintenance of transportation infrastructure. NCSL has been [vocal in support of](#) a new, innovative, user-fee, formula-based transportation funding and financing mechanism.

New Flexibilities for States

STRA-21 includes several new flexibilities for states to determine how their formula funding can be used. For starters, federal funds provided to states via the STBG would be given additional flexibility in allowable project uses including electric vehicle charging infrastructure and vehicle-to-grid infrastructure, resilience features, cybersecurity protections, and more. Flexibility would be provided via [the Highway Safety Improvement Program](#) (HSIP), as well with formula funding now able to be directed towards traffic safety education campaigns instead of solely infrastructure specific projects.

The bill does not include any language expanding state tolling authority but establishes a congestion relief competitive grant program in Section 1404 which would allow states, local governments and metropolitan planning organizations (MPOs) to advance solutions to congestion relief in the most congested metropolitan areas. Eligible projects would include integrated congestion management systems, and systems that implement or enforce high occupancy vehicle toll lanes, cordon pricing, parking pricing, or congestion pricing. Interstate tolling would be allowed in no more than 10 urbanized areas.

Key Competitive Grants

As noted above, the bill includes funding for the renamed [Surface Transportation System Funding Alternative Program](#), which provides small amounts of funding to states to study and

test road usage charges. The legislation expands eligible applicants from state DOTs, to include a local government, or group of local governments, an MPO, or groups of MPOs. The section also increases the federal share for the program to 80% of the total cost of a project carried out by an eligible entity that has not otherwise received a grant under this section, and 70% of the total cost of a project carried out by an eligible entity that has received at least one grant previously—a significant change from the current 50/50 federal-state split on projects.

The bill also provides \$4.8 billion over five years for the National Significant Freight and Highway Projects Program, also known as [the INFRA grant program](#) which provides competitive grants to significant freight and highway projects of national and regional significance.

More than \$3 billion is authorized for a new Bridge Investment Program, which would provide competitive grants to address the backlog of bridge repair and rehabilitation. Eligible projects include projects to replace, rehabilitate, preserve or protect bridges on the National Bridge Inventory, or a bundle of such projects, or a project to replace or rehabilitate culverts to improve flood control. Eligible applicants include states, groups of states, local governments, political subdivisions thereof.

Climate Change and Resiliency

The bill includes a new “Climate Change” title which provides more than \$18 billion in funding from the HTF to be distributed via formula and competitive grants.

The bill establishes a new Carbon Reduction Program which not only would distribute \$6.4 billion to states by formula to invest in projects that support a reduction in transportation emissions, but also require states to develop emission carbon reduction strategies. Eligible uses of the funds include transportation electrification and EV charging, public transportation, infrastructure to support congestion pricing, and port electrification. Separate, but related, the bill authorizes \$2.5 billion for a new competitive grant program to support electric vehicle and alternative fuel charging infrastructure, and makes electric vehicle charging eligible for funding via the existing STBG.

Additionally, the bill creates a new Promoting Resilient Operations for Transformative, Efficient, and Cost-saving Transportation, which provides \$7.3 billion in formula funding to states and \$1.4 billion in competitive grants to eligible entities aimed at making surface transportation infrastructure more resilient to the effects of extreme weather and natural disasters, with a portion of funding dedicated for at-risk coastal infrastructure. Relatedly, the bill authorizes \$500 million for a new Resilience and Adaptation Centers of Excellence to advance research on how to make surface transportation infrastructure more resilient to increasingly extreme weather events.

Planning and Environmental Reviews

One of the most notable sections in the bill is Section 1301 which would codify the “One Federal Decision,” established by former President Donald Trump in [executive order 13807](#), which requires the lead federal agency to develop a schedule for a major infrastructure project that is consistent, to the maximum extent practicable, with an agency average of not more than two

years for the completion of the environmental review process for major infrastructure projects. The bill also aims to improve accountability by requiring DOT to track and submit an annual report to Congress outlining the time needed to complete environmental assessments under the [National Environmental Policy Act](#). Additionally, Section 1310 eliminates existing requirements for states repaying Federal-aid reimbursements for preliminary engineering costs on a project that has not advanced to right-of-way acquisition or construction within 10 years.

Section 1204 establishes a prioritization process pilot program which would allow DOT to award individual grants not exceeding \$2 million to selected states and metropolitan planning organizations to develop and implement a publicly accessible, transparent prioritization process to evaluate and select projects to include in their transportation plans.

Safety and Equity

As briefly mentioned above, the bill provides states with increased flexibilities outlined in Section 1111 via the HSIP, including the ability for states to spend up to 10% of its HSIP funding on certain non-infrastructure activities and behavioral safety projects, such as traffic safety and enforcement activities. Section 1502 also establishes a new grant program to aid state DOTs and local governments with installing projects designed to prevent pedestrian injuries.

Additionally, the bill authorizes \$350 million for a new pilot program providing competitive grants for projects that reduce wildlife-vehicle collisions, making wildlife crossing structures eligible for funding. The bill also adds animal detection systems research and development as a priority area for intelligent transportation system research and development.

Rural Communities & Equity

The bill makes several investments in rural and tribal communities including by authorizing \$2 billion for a new competitive grant program to improve and expand the surface transportation system in rural areas, with a focus on increasing connectivity, generating economic growth, and improving quality of life. A new Rural Opportunities to Use Transportation for Economic Success Council is created to help ensure the unique needs of rural areas, tribes and disadvantaged rural communities are addressed by DOT.

The bill authorizes \$500 million for a new pilot program that provides competitive grants for planning and projects to remove, retrofit or mitigate existing highways that may have contributed to mobility and economic barriers, aiming to support community efforts to reconnect and revitalize those areas.

Key Links

[Bill Text](#)

[Section by Section Summary](#)

[Short Summary](#)