

ARTBA's First Look: House Surface Transportation Reauthorization Proposal

The House Transportation & Infrastructure (T&I) Committee Chairman Sam Graves (R-Mo.) and Ranking Member Rick Larsen (D-Wash.) May 17 released a five-year surface transportation bill called the *Building Unrivaled Infrastructure and Long-term Development for America's 250th Act* (BUILD America 250 Act.) The bill would authorize \$580 billion in funding for highway, transit, and safety programs through Sept. 30, 2031.

The measure would maintain core formula programs, create new revenue for the Highway Trust Fund and include reforms to enhance project delivery and work zone safety.

Here are the highlights from ARTBA's initial analysis:

Highway Funding:

The *Build America 250 Act* continues total highway investment at current levels, with slight growth adjustments as the duration of the bill goes forward.



The highway formula programs would increase by more than 3 percent in year one, with more modest growth in the out-years.

Formula funds would receive 90 percent of the proposed resources, and the remaining 10 percent would be directed to discretionary and allocated programs.

The bill would eliminate \$3.7 billion in annual funding for three climate-focused formula programs, the Carbon Reduction Program, National Electric Vehicle Infrastructure program and the PROTECT resiliency program.

Details about the distribution of funds by formula to states will be shared as soon as they are available.

Bridges: The measure would increase bridge formula program funding from \$5.5 billion to \$9 billion annually, but would make the current bridge discretionary grant program subject to annual appropriations. Total funding of \$45 billion in bridge investments over 5 years would represent a 12 percent increase over prior law.

The program would require at least 25 percent of funds go to local and off-system bridges.

Discretionary Grants:

The proposal modifies or eliminates several discretionary grant programs and, in some cases, rolls that money into formula programs.

A new discretionary grant program called the Surface Transportation Accelerator Grants (STAG) program would provide \$2.4 billion annually, with 50 percent of funding reserved for local and regional grants, 25 percent for rural grants, and 25 percent for urban grants.

The Safe Streets and Roads for All program would continue, but would lower guaranteed investment levels by half, relative to the current authorization: \$500 million for Fiscal Year (FY) 2027, rising to \$1 billion for FY2031.

Numerous other discretionary grant programs--including the INFRA, MEGA and RAISE, which support multimodal, regional and freight-related projects--would be authorized at current investment levels, but are no longer guaranteed. Instead, the responsibility for funding these programs would shift to the congressional appropriations process.

Transit Funding:

Mass transit programs would receive a \$2 billion investment cut to \$16.9 billion in FY 2027 with modest growth thereafter. This cut is due, in large part, to the elimination of \$1.6 billion in annual guaranteed Capital Investment Grants (CIG) included in current law.

The CIG program, which supports transit capital projects, is authorized at \$3 billion each year, but all resources would need to be secured through the annual appropriations process.

Highway Trust Fund Revenue:

The BUILD America 250 Act would establish a \$130 annual fee on electric vehicles (EVs) and \$35 annual fee for hybrid vehicles to ensure all users of the highway system support its maintenance and upkeep. These provisions would represent new revenue to the Highway Trust Fund (HTF) for the first time in decades.

The fees would gradually increase every two years but are capped at \$150 for EVs and \$50 for hybrids.

While the EV and hybrid user fees are a welcome recognition of the importance of the user pays system, Congress will have to identify additional resources to cover the measure's total expenditures.

Key Policy Revisions Proposed:

Project Delivery:

One Federal Decision: The bill would shorten page and time limits for environmental review for major projects.

Categorical Exclusions (CE): The threshold for projects qualifying for a CE is raised from \$6 million to \$12 million.

NEPA Assignment: States are now able to renew their NEPA assignment status every 10 years, up from every 5 years.

Work Zone Safety: Roadway workers are a specific focus throughout the Highway Safety Improvement Program (HSIP) section, including in safety data collection, construction zones as hazardous locations, and the definition of road users. These provisions will help differentiate roadway workers from other pedestrians in the policymaking process.

An interagency working group would be established that would develop recommendations for work zone protections and require stakeholder input.

Digital Construction: Recipients of federal funds are encouraged to use digital technologies, like 3-D models and cloud-based platforms when completing environmental reviews.

Digital technologies, including e-ticketing, are included as eligible HSIP activities.

The Advanced Digital Construction Management Systems program is reauthorized.

Disadvantaged Business Enterprise (DBE) Program: The BUILD America 250 Act would reauthorize the DBE program, setting a “national, aspirational goal” of at least 10 percent to be achieved “through good faith efforts” of state and local transportation agencies.

The provisions are consistent with U.S. Department of Transportation's (USDOT) recent interim final rule and removes references to "discrimination" and minority- and women-owned businesses, instead citing "social and economic disadvantage" as the basis for continuing the program.

The measure would instruct the Secretary of Transportation to develop "objective criteria" for states to use in evaluating individuals applying for DBE certification.

Anticompetitive Bidding: The bill would direct the Secretary of Transportation to issue guidance so states can audit procurements and identify "anticompetitive bidding patterns," and "reduce reliance on historical data when developing engineer's estimates."

If enacted, it would establish a committee within USDOT, including representatives of state DOTs and industry associations, for recommendation of federal regulatory revisions to prevent anticompetitive bidding practices on federal-aid highway projects.

Next steps:

The Committee is scheduled to act on Thursday, May 21, before Congress heads home for the Memorial Day District Work Period.

The House Energy & Commerce Committee, Science, Space and Technology Committee, and Ways & Means Committee will also consider sections of the bill, prior to consideration by the full House.

The Senate Environment and Public Works Committee is still aiming to release their highway portion of a reauthorization bill this summer.

Existing highway and transit authorizations are set to expire Sept. 30.

A full analysis of the BUILD America 250 Act will be distributed to ARTBA members later this week.