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Surface Transportation Reauthorization and the America's Transportation Infrastructure Act (S. 2302)

Surface transportation programs are currently authorized through FY2020 by the Fixing America's Surface Transportation Act (FAST Act; P.L. 114-94). In a step toward FAST Act reauthorization, the Senate Environment and Public Works Committee (EPW) on August 1, 2019, reported the America's Transportation Infrastructure Act of 2019 (ATIA; S. 2302). The bill includes the highway elements of surface transportation reauthorization under EPW's jurisdiction. In the Senate, other elements of reauthorization, such as public transportation, highway safety agencies, rail, and tax revenues, are under the jurisdiction of other committees.

The Federal Highway Programs

Nearly all federal highway programs are funded from the highway account of the Highway Trust Fund (HTF). ATIA would provide an average of $57.5 billion annually from the HTF during FY2021-FY2025. Of these funds, 90.3% would be distributed via formula, about a 2% lower share than under the FAST Act. The states have nearly complete control over the use of formula funds, within the limits of federal planning, eligibility, and oversight rules. The highway program focuses on highway construction and planning, not operations or routine maintenance. The federal share of project costs is generally 80%, but 90% for Interstate System projects. Projects are limited to designated federal-aid highways, which make up roughly 25% of the 4 million miles of U.S. public access roads.

Funding

The five-year $287 billion in HTF contract authority proposed by ATIA would be a 27% increase over the five-year funding provided by the FAST Act. ATIA funding also would be a 15% increase over the May 2019 Congressional Budget Office inflation-adjusted baseline projections. The FY2021 increase would be the largest, at 17% above FY2020, followed by increases averaging roughly 2.1% per year for the following four years (**Table 1**).

Table 1. Funding Authorized from the HTF
Fiscal years: millions of dollars

	2020 FAST	2021 ATIA	2022 ATIA	2023 ATIA	2024 ATIA	2025 ATIA
Formula	43,450	49,824	50,799	51,820	52,886	53,952
Other	3,654	5,303	5,424	5,585	5,784	5,891
Total	47,104	55,127	56,222	57,405	58,669	59,843
Increase	—	17%	2%	2.1%	2.2%	2%

Source: Federal Highway Administration.

The apportionment of formula funds authorized by ATIA would provide the states the same annual average share of the nationwide apportionments that they received under the FAST Act, but the dollar amounts would be roughly 19% greater. HTF contract authority can be obligated without an appropriation. ATIA also would authorize almost $5 billion in general fund spending, but these funds would have to also be appropriated.

Highway Trust Fund Shortfall

Paying for the spending from the HTF proposed by ATIA might be the main reauthorization issue. Addressing revenues and offsetting savings is in the jurisdiction of the Senate Finance Committee. The HTF, which is mostly supported by fuel tax revenues, has had insufficient balances to fund surface transportation authorizations since September 2008. Congress has dealt with the shortfalls by providing transfers from the Treasury general fund. The Congressional Budget Office's May 2019 HTF baseline projected a highway account shortfall of $53 billion for the end of FY2025. ATIA would authorize an additional $37.9 billion from the highway account of the HTF for FY2021-FY2025. Not all of these authorizations would be outlaid by the end of FY2025. Assuming the historical outlay rates for highway authorizations, the total highway account shortfall under ATIA could approach $79 billion at the end of FY2025, with funding added for the highway safety agencies. With the public transportation element added to the bill (funded out of a separate mass transit HTF account), the potential HTF shortfall would be even higher. ATIA includes a sense-of-the-Senate provision that the HTF shall achieve long-term solvency via user fees, and that any spending beyond current HTF revenues and balances during the life of the authorization "shall be fully offset."

Programmatic Structure and New Programs

The federal highway program currently has six core formula programs: the National Highway Performance program, the Surface Transportation Block Grant program, the Highway Safety Improvement program, the Congestion Mitigation and Air Quality Improvement program, the National Highway Freight program, and the Metropolitan Planning program. ATIA would maintain these programs and fund them at an annual average of roughly $49.9 billion, 87% of HTF funding under ATIA. This annual average would be 20% higher than the average annual FAST Act funding.

ATIA also creates three new formula programs: the Formula Safety Incentive program, the Carbon Reduction Incentive program, and PROTECT grants. These programs would be funded at $1.9 billion annually and would make up 3.3% of the HTF funding in ATIA. These program funds would be distributed separately from the core programs. One result of this treatment is that, unlike the core programs, the new formula program funds may not be transferred or "flexed" to other formula programs.

In addition to the three new formula programs, ATIA would fund eight new discretionary programs and five new pilot programs from HTF. In addition, the bill would authorize five new programs that Congress may choose to fund via the appropriations process. The HTF-funded discretionary programs are smaller and more narrowly focused than the core formula programs. These programs include the Bridge Investment program, the Congestion Relief program, the Alternative Refueling Infrastructure Grants program, and the Carbon Reduction Performance program. New pilot programs include the Wildlife Crossing Pilot program, Disaster Relief Mobilization Pilot program, and Community Connectivity Pilot program.

The expansion of the number of highway programs would be a change from the last two reauthorization acts, which reduced or limited the number of programs. Increasing the number of programs and expanding the use of internal program set-asides allows for the targeting of needs and may broaden support for the bill in the absence of earmarks. Others view the growth in the number of programs as making the overall federal highway effort less focused.

Bridges

The Bridge Investment program would have the largest authorization of the new programs, with HTF funding averaging $653 million per year and a like amount from the general fund (subject to appropriation). It would be a competitive grant program under the auspices of the Secretary of Transportation. The funds could be used on any bridge listed on the National Bridge Inventory or on culverts to increase flood control. For large bridges, the Secretary would establish a bridge evaluation process and commit to multiyear funding agreements.

Freight

ATIA would provide an annual average of almost $1.7 billion for the National Highway Freight program. The bill would expand the maximum designated mileage for rural and urban critical freight corridors, increase the share of funds that can be used on intermodal rail projects, and expand funding eligibility to lock and dam modernization and marine highway projects. The Infrastructure For Rebuilding America (INFRA) discretionary program, another existing program, would be funded at an average of $1.1 billion annually. The program would be modified to allow up to 30% of funds for non-highway freight projects, set $500 million minimums for Critical Rural and Critical Urban Interstate projects, increase the funding reserved for small and rural projects, and create more reporting requirements.

Climate Change

ATIA would authorize roughly $10 billion over the life of the bill for highway-related climate change mitigation and adaptation programs. The bill includes formula programs to incentivize the reduction of carbon emissions from on-road sources and to support adaptation/resilience projects and planning. ATIA includes discretionary funding to support alternative fueling infrastructure, highway congestion relief, and adaptation/resilience. The bill would also add adaptation/resilience eligibilities to existing programs.

Tolling and TIFIA

ATIA would expand the Transportation Infrastructure Finance and Innovation Act (TIFIA) program eligibilities to airport projects. The bill would add processing timelines and streamlining requirements to the program, as well as evaluation and review requirements for projects that involve public-private partnerships. TIFIA previous-year carryover balances that are unobligated and unallocated would be made available through a competitive process for Appalachian Development Highway System projects.

ATIA would establish a pilot program to allow the exchange or sale of toll credits between states. Toll credits can be used to substitute for the state matching share on federal highway projects. The bill would also require tolling authorities to report on the charges to intercity buses and how they differ from charges to mass transit vehicles.

Safety

ATIA would establish two new safety grant programs. The Formula Safety Incentive program, funded at $500 million per year from the HTF, would be distributed to the states based on each state's core formula program share. Sixtgy-five percent of these funds would be suballocated by population. The Fatality Reduction Performance program would be funded at $100 million per year from the HTF. Grant awards would be based in part on the success that states have had in moderating or reducing average per capita traffic injury and fatality rates. The bill would also allow states to transfer up to 25% of their Highway Safety Improvement program funding, which is mostly for safety infrastructure spending, to other safety programs. ATIA would also create a Wildlife Crossing Safety Pilot program, funded at $50 million annually from the HTF. High schools would be made eligible for grants under the Safe Routes to School Program.

Planning, Performance and Project Delivery

ATIA would amend elements of Metropolitan Planning Organization (MPO) boundaries, organizational representation, and coordination requirements. State planning agencies and metropolitan planning organizations would be given more leeway in estimating project costs in long-range transportation plans. ATIA would allow aggregate cost ranges to be used beyond the first four years of a plan, rather than beyond the first 10 years. The bill would encourage states to develop five-year human capital plans. Performance measure exemptions would be provided for low-population density states.

ATIA would codify the One Federal Decision process (Executive Order 13807) and establish guidelines for environmental review, including a requirement that the Secretary of Transportation provide a report on environmental best practices. The bill would require the Secretary to exercise all existing flexibilities.

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